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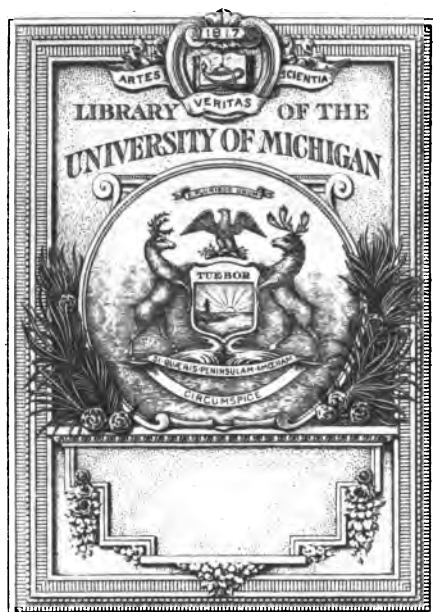
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FOUR LECTURES



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1387
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ON SUBJECTS CONNECTED WITH

DIPLOMACY

BY

MOUNTAGUE BERNARD, M.A.

CHICHELE PROFESSOR OF INTERNATIONAL LAW

AND DIPLOMACY,

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THE first of these Lectures was delivered in 1860, the other three respectively in 1865, 1866, and 1867. They are printed in substance as they were delivered, with some occasional alterations. Important changes in the state of Europe have occurred during the past eight years. I have not however thought it necessary to cancel or alter references to current events, or expressions of opinion suggested by circumstances existing at the time; nor could this have been done without inconvenient disturbance of the context.

ALL SOULS COLLEGE, OXFORD,

January, 1868.

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LECTURE I.

THE CONGRESS OF WESTPHALIA¹.

BETWEEN the two greatest Congresses recorded Lect. I.
Congresses
of West-
phalia and
Vienna
compared.
Resem-
blances.
in history, those of Westphalia and Vienna, there are some striking resemblances coupled with broad differences. Each ranks among those cardinal epochs which seem to close a long chapter of history and begin another ; each marks the end of a period black with the calamities of almost incessant warfare ; each did substantial work, wrought extensive and important changes, and was accounted in its day—the first during several generations—the basis of what statesmen called the political system of Europe. In each we have the imposing spectacle of a grand assembly or General Council of States met to deliberate on matters concerning the general welfare. And within each, if we penetrate to the heart of the conclave, we find ourselves surrounded by a throng of obscure agencies and selfish interests.

¹ This Lecture was intended as an Introduction to a Course, informally delivered, in which the subject was treated in detail.

LECT. I.
Differ-
ences.

These points of likeness, which it would be easy to multiply, are accompanied by marked differences. The two Congresses differed in their character, scope, functions, and method of proceeding, and in the solidity of the edifices they respectively left behind. What was done at Vienna was done by common consent. A board or council of great Powers, assisted by sub-committees, disposed of the vast territories which had been left masterless by the fortune of war, ratified a multitude of bargains and exchanges, drew the boundaries of kingdoms, created and extinguished sovereignties, erected confederacies, opened the navigation of rivers. No such concert existed, no such consent was attainable, at the earlier Congress: two allied Crowns, the French and Swedish, there virtually dictated conditions of peace. The arrangements made at Vienna extended throughout Europe, and beyond Europe. But the Treaties of Westphalia were in their scope almost exclusively German. They related to the affairs of the Empire; and the Empire, long before the seventeenth century, had become merely German¹. There was a personage in Europe who styled himself 'Electus Romanorum Imperator, semper Augustus;' his ambassadors

Treaties of
Westphalia
related al-
most exclu-
sively to
Germany.

¹ When I speak in this Lecture of the 'Treaties of Westphalia,' I mean the two Treaties signed respectively at Münster and at Osnabrück on the 24th of October, 1648. I do not refer to the Treaty concluded on the 30th of January, 1648, between the United Provinces and Spain.

were 'Legati Cæsaris;' the 'Status Imperii Romani' LECT. I.
 met at his summons, as the States General of the Dutch United Provinces or the French monarchy, or the local States of Utrecht or Brittany, Lower Austria or Brandenburg, assembled or might assemble for the affairs of their respective countries¹. But these superb designations, though they were uncontested², though they could be traced back to the time when a real and not wholly unsuccessful effort had been made to revive the extinct Empire of the West, and though they did not, like that of King of Germany, denote a mere titular dignity, were as inappropriate as any which the imagination could frame. The prince who called himself Roman Emperor, King of Germany and Bohemia, and Count of Tyrol, with twenty other titles, had, as King of Bohemia

¹ To avoid misapprehension, it is necessary to bear in mind that in Germany not only did 'the States' mean the assembly itself, as men spoke of 'Messieurs les Etats' in France, or 'de Heeren Staten's Lands van Utrecht' in the Netherlands, but a State ('Stand' or 'Status') meant an individual person such as a Bishop or Count, or community such as an Imperial city in its corporate character, having a seat and voice in such an assembly. At least, this is the ordinary meaning of 'Reichsstand' or 'Status Imperii.' Thus, the Elector of Brandenburg, apart from his Electorate, and a single Elector, apart from the body of Electors, was spoken of as a State of the Empire. To trace the gradations of meaning through which the word passed, would be out of place here.

² The affix 'semper Augustus' was contested by Servien at Münster, but merely for form's sake, and on no better ground than that it had not been used in the last Treaty between France and the Emperor, that of Querasque.

LECT. I. and as Count of Tyrol, distinct sets of powers and prerogatives. As Roman Emperor, he had other powers and prerogatives, but they were not those of a Roman Emperor: there was really a political body answering to the name of the Roman Empire, but it was not the Roman Empire, nor anything in the least like it: it was only an organized group of countries either inhabited by Germans or in which Germans were the ruling race, under an elective head; and its limits had gradually contracted themselves nearly to those of the present German Confederation, receding even from some lands which remained thoroughly Teutonic—from Switzerland, the cradle of the great German river, and the Low Countries, through which its divided waters steal to the sea¹. The mongrel phrase ‘Roman Empire of the German Nation,’ afterwards shortened into ‘German Empire’ by current speech, expressed both what it pretended to be and what it was. To the Empire, thus

¹ The Emperors, however, in 1648, and long afterwards, claimed a superiority over large portions of Northern Italy, as outlying ‘fiefs’ or dependencies of the Empire, and the Treaty of Münster contains articles relating to these dependencies. Schoell suggests the question whether this claim, not having been expressly renounced by the Treaty of Luneville or any subsequent Treaty, was not liable to be revived as to the territories not included in the cessions of Luneville. *Histoire des Traités de Paix*, ii. 103. (ed. 1837.)

For a general view of the history of the Empire, at once accurate, vivid, and comprehensive, it is enough to refer to Mr. Bryce’s work on the subject.

shrunk and nationalised, these Treaties were instruments of capital importance. They formed, as long as it lasted, the principal charters of its constitution, and the title-deeds by which many of its members held large portions of their possessions. Partly, no doubt, from this cause, but still more from the indelible recollections burnt into the hearts of men by the war to which it put an end,—a war so unspeakably cruel and calamitous that the like has never been known in Europe,—the Westphalian Congress has retained in Germany a local celebrity and regard such as no other like assembly ever acquired, there or elsewhere. No one cares to know where the Congress of Vienna transacted its business: among the villas and gardens of the hamlet of Ryswyk you look in vain for the site of the house where the plenipotentiaries met in 1697: the building in which the Treaty of Utrecht was signed remains, but no traditions linger round it. But at Osnabrück, as well as at Münster, the Friedenssaal—the ‘Hall of the Peace’—is preserved with religious care; you are shewn, at Münster at least, the seats in which the envoys sat; and their portraits hang in long lines upon the wall.

Of the diplomatic history of modern Europe the Peace of Westphalia has commonly been regarded as the first great era. It has thus been chosen as a point of departure by Koch in his *Histoire des*

^X
Their im-
portance as
an era of
diplomatic
history.

LECT. I. *Traité de Paix*, by Wheaton in his *Histoire des Progrès du Droit des Gens*, and by those whose business it has been, in this country and elsewhere, to frame a preparatory course of reading for members of the diplomatic profession. From that time at least Europe may be said, though in a vague and imperfect sense, to have formed a kind of commonwealth ; the family of States, divided amongst themselves, have yet acknowledged themselves bound by common ties, and have learnt to watch with a vigilant anxiety over the preservation of the general peace. Systems of policy have sprung up, have been methodised, taught and practised : permanent alliances have been formed ; an artificial balance has been protected by extensive and intricate combinations, and a chain of great Treaties, each recalling and confirming, from the Peace of Westphalia downwards, those which had gone before, runs down unbroken to the wars of the Revolution. It was not indeed in the seventeenth century that these things had their beginning. An exact study of any period of history, however short, teaches us better than anything else how close is the sequence of events through successive periods, and how unbroken the flow of that majestic stream which seems, as we look back on it, to turn and wind, to narrow and expand, to hurry on at intervals with a sudden rush and animation, and then to glide monotonously through long tracts of time.

The policy of Mazarin towards Germany had been LECT. I. bequeathed to him by Richelieu, and indeed differed hardly at all from that which had been pursued more or less steadily by several French sovereigns in succession. It had been expressed in 1610 in the address delivered by Boissise to the assembled delegates at Hall, and more plainly in the confidential paper submitted in 1631 to the Council of Louis the Thirteenth by Richelieu's Capuchin agent, the famous Père Joseph¹. Without a clear apprehension of the chain of causes which made that country what it was at the outbreak of the Thirty Years' War, it is impossible to understand the Peace of Westphalia; nor can you appreciate what it effected if you are unacquainted with the earlier attempts at a permanent pacification and the reasons why they failed. X It was during the negotiations of this Congress that the friendship between France and the United Provinces gradually gave place to an estrangement which was afterwards to become deadly hostility, the Dutch perceiving that a useful ally was likely to prove a very dangerous neighbour; and in the same negotiations we may trace, though obscurely, the leisurely march of that persevering ambition which has transformed the Electorate of Brandenburg into the Kingdom of Prussia². Nevertheless it

¹ Flassan, *Histoire de la Diplomatie Française*, ii. 273, 443.

² The Great Elector had begun to reign in 1640. It was of Brandenburg that a member of the French mission wrote as

Lect. I. is true that for practical purposes history does and must arrange itself into sections or periods, and a general acquaintance, accurate as far as it goes, with earlier divisions is groundwork enough for an exact knowledge of a later.

X
Their value
to the stu-
dent.

Beside their importance in this respect, the Treaties of Münster and Osnabrück have special claims of their own on the attention of the class of students to whom I have referred. They were the result, in the first place, of a very long and intricate negotiation in which many jarring interests were involved, and all the artifices of a shifty and astute diplomacy were employed on both sides. Of that diplomacy they present to us a most lively and curious picture, with which there is nothing else in history to compare. They are drawn up, for the most part, with a fulness and precision of language rarely to be found in later documents of the same kind—a fact due perhaps to the presence among the plenipotentiaries of a large body of trained lawyers; and they have furnished valuable precedents to the treaty-framers of later times, a class of draughtsmen much

follows: 'Je vois dans cette Cour tant de vastes desseins de tous côtés que je crois qu'il sera difficile de fixer ce Mercure, leur fausse prudence allant à ne désespérer personne de leur amitié; ce qui est un fort mauvais politique, parce que bien souvent qui ne veut point avoir d'ennemis se trouve sans amis.' (Bougéant, *Histoire du Traité de Westphalie*, vi. 164.) Exactly the same reproach was addressed by Napoleon to Haugwitz in 1805, after the battle of Austerlitz.

attached to precedents. For the most part, I say, Lect. I. because certain clauses (those which relate to the cession of Alsace) have become famous for an obscurity of expression that gave occasion to the war of 1688—an obscurity however which was probably intentional, at least on the French side. Questions of form, which have not wholly ceased to be instructive, were discussed with extraordinary keenness and pertinacity, as long as both parties hoped to gain better terms by protracting at once the negotiation and the war. Lastly, our sources of information respecting the Congress are unusually rich and abundant. Several histories of it are extant, one by a member of the Congress, a learned Benedictine, envoy of the Abbot of Corvey. Memoirs or diaries, or fragments of memoirs or diaries, of seven or eight other plenipotentiaries exist, or once existed, and have been used by writers who had access to them¹. Four thick folios, edited by Leclerc and published at the Hague in 1725, are full of the despatches, state-papers, and memoranda of the French mission—a voluminous collection, which needs sifting and arrangement, but illustrates well the mingled sagacity and frivolity, the habits of copious exposition and minute narration, which characterized French diplomatic correspondence in the sixteenth and seventeenth

¹ An account of these is given in Pütter, *Geist des Westphälischen Friedens*, Part. I. Bk. I. c. v.

LECT. I. centuries. And in Germany a mass of literature has sprung up, belonging exclusively to the subject, and consisting chiefly of dissertations on particular points of the Treaties to which circumstances have given special importance¹.

It is for these reasons, I conceive, that the Treaties of Westphalia have been pronounced by an excellent authority, M. Koch, the best of all studies for those whose attention is turned to subjects of this kind. Let us consider how they may be studied with advantage.

Plan on
which they
should be
studied.

A Treaty of Peace may be regarded in several lights. It is a historical event—a link in the chain of events, having causes and consequences. To determine its position in that chain, to trace those

¹ The books most readily accessible are the following :—

Bougéant's *Histoire des Guerres et des Négociations qui précéderent le Traité de Westphalie*. Paris, 1751.

Pütter's *Geist des Westphälischen Friedens*. Göttingen, 1795 (a useful book).

Woltmann's *Geschichte des Westphälischen Friedens*. Leipsic, 1808.

Leclerc's collection is entitled *Négociations secrètes touchant la Paix de Münster et d'Osnabrug*. It is commonly found in the form of a sequel to Dumont's *Corps Diplomatique*. Lists of works bearing on the subject are given in Pütter and in Schoell. De Garden, in his *Histoire Générale des Traités de Paix*, somewhat enlarges Schoell's list. The general reader will find all that he requires in Schoell's excellent revised and enlarged edition of Koch's *Histoire Abrégée des Traités de Paix*, and in Flassan's *Histoire de la Diplomatie Française*, vol. iii.

causes and consequences, is to examine it historically. Lect. I.
 It is a written instrument of a peculiar kind, creating public rights and solemn engagements. To consider its form and characteristics, its force and interpretation, is the province of the jurist. Finally, it remains for the politician and the professional diplomatist to weigh the advantages gained or lost on either side, and to acquaint themselves with the means by which those advantages were secured.

The thorough study of a great Treaty should comprehend these several things. But this is much more than we can undertake here. I propose in this Lecture to make some general remarks on the Congress, its character, proceedings and consequences, and the light it throws on Congresses and pacifications in general. Afterwards I propose, with those who may think it useful to them, to go briefly but carefully through the preparatory history, the negotiations, the Treaties themselves, and the more important of the questions to which they subsequently gave rise.

The Peace of Westphalia closed, as we all know, the great semi-religious war which desolated Germany for thirty years, from 1618 (the date commonly adopted) to 1648. It was a war waged in part for the free exercise of new forms of religion, in part for the privileges and franchises of the States Powers represented at the Congress.

LECT. I. of the Empire against the encroaching power of the House of Austria. Purely German in its origin and objects, it had for many years been carried on by France and Sweden, with very little assistance from the Protestant princes of the Empire, but to a great extent with German troops in French and Swedish pay. France and Sweden therefore on one side, and the Emperor on the other, were the principal parties to the negotiation. But France was likewise at war with Spain; and in this latter quarrel she had an ally in the Dutch, whose independence was still unacknowledged by their ancient master, though the war between them, renewed after the Twelve Years' Truce, had subsided into a languid, and on his side a clearly hopeless, struggle. And all the States of the Empire, Catholic as well as Protestant, had been induced by the address or the importunity of the French to send deputies to the spot. The King of Denmark, the Dukes of Savoy and Mantua, and the Grand Duke of Tuscany, were represented there. Delegates from Portugal, which had newly asserted its independence, and from the revolted Catalans, came, not without some personal risk, in the suite and under the protection of the French. Through the good offices also of the French, the Thirteen Swiss Cantons, though not directly represented, were included in the pacification, and their independence the Empire received a hesitating and reluctant

recognition¹. Johann Rudolf Wetstein, Burgomaster of Basle, whose influence over his countrymen won him the nickname of 'King of the Swiss,' attended the Congress to watch the interests of the Confederation. The Pope and the Republic of Venice were mediators; Fabio Chigi, afterwards known as Alexander the Seventh, acting for the former, and one of the Contarini family, who had been ambassador at the chief European Courts and became Doge in 1676, for the latter. In short, no European Power was absent, except England, Poland, Muscovy, and the Ottoman Porte². England, under the first two Stuart sovereigns, had been prodigal of her counsels and exhortations, which had been received as advice usually is from those who have nothing else to give; and she was now dead to everything

¹ 'Civitatem Basileam ceterosque Helvetiorum cantones in possessione vel quasi plenæ libertatis et exemptionis ab imperio esse, ac nullatenus ejusdem imperii dicasteriis et judiciis subiectos.' Art. vi. of Treaty of Osnabrück; cl. 61 of Treaty of Münster.

² The Kings of England and Poland were however expressly included in the Treaty of Osnabrück as allies both of the Emperor and of Sweden, and the Grand Duke of Muscovy as an ally of Sweden. The Porte was the only Power unrepresented at Vienna in 1815. Portraits of almost all the plenipotentiaries are preserved at Münster and at Osnabrück, and in a folio volume of coarse but spirited Dutch engravings after Van Hülle, published at Amsterdam in 1717. This is the date of my copy, but the same work appears to have been published under a different title at Antwerp in 1691.

LECT. I. but her own domestic dissensions. Within a few months after the signing of the preliminaries, Charles the First had raised his standard at Nottingham, and the civil war had begun.

Play of
Interests.

If we mentally people the scene with this crowd of actors, each animated by his own hopes and apprehensions and bent upon his own ends, if we observe into what groups they naturally break and into what attitudes they fall, we shall see that, whilst the game they were engaged in was nice and difficult, it was played upon simple principles. The interests of the Emperor—of the Catholic States of the Empire—of the Protestant States of the Empire—of the States as a body—of particular classes of them, such as the Electors or the Free Towns, whose pretensions clashed with those of other classes—of individual German princes who had their own grievances or quarrels—of France—of Sweden—of Spain—of the Dutch—of the Duke of Lorraine, were all distinct from one another. Each wanted something which no other wanted, but which others could help him to obtain; and this intricate play of great and petty forces, sometimes assisting, sometimes thwarting one another, called for careful study, and gave room for adroit management on the part of those who held the main threads of the negotiation. | But the forces which could really influence the course of it were gathered in few hands. France and Sweden united, with such assistance as

they could get from the Protestant States of the LECT. I. Empire, were more than a match for the Emperor and the Elector of Bavaria, his restless, false, and able ally. France and the United Provinces, united, were more than a match for Spain. The whole aim therefore of the Imperialists was to detach the Swedes and their allies, of Spain to detach the Dutch from France—to cajole, and, if necessary, buy off at any price, the less formidable of the confederates, and thus isolate the ambitious Power which to both branches of the House of Austria was the grand object of hatred and fear. France, on her part, bent her whole energies to frustrate these schemes and keep shoulder to shoulder with her two chief allies. By subsidies, large but jealously doled out, by all the arts of persuasion, by renewed and stringent treaties binding each in negotiating to keep step with the rest, she laboured to interlace and knit together the interests which her adversaries strove to separate. The Swedes were to be watched, coaxed, and upbraided on one side, and, on the other, the eight wary phlegmatic Dutchmen who represented the United Provinces. The German princes were likewise to be humoured by their affairs being taken into consideration first; but they were not to be allowed to feel themselves secure. The interests therefore of the States of the Empire and the Elector of Bavaria were to be first considered and last disposed of.

Lect. 1. The engines employed on the other hand by the Emperor and the King of Spain, were intrigue, corruption, and obstinate perseverance in a system of wearisome and frivolous delay. Here, in few words, is the whole plot of the drama from its opening to its close. It ends with a half success. The Imperialists failed; the Spaniards achieved their aim, concluded in January 1648 a separate peace with the Dutch, and eleven years afterwards obtained, at the Peace of the Pyrenees, better terms than they had almost accepted at Münster.

Procrasti-
nation on
both sides.

How these and other causes, which I will mention presently, contributed to protract the negotiations, a few dates will shew. As early as 1636 the solicitations of Pope Urban the [Sixth,] who saw in the humiliation of Austria the ruin of Catholicism in Germany, had extorted from the belligerents an unwilling consent to treat; and Cardinal Ginetti, as mediator, had repaired to Cologne, where he was joined by envoys from the Courts of Vienna and Madrid. A discussion on the form of the safe-conducts to be granted by the Emperor began in 1637, and lasted nearly five years. It was not till the 25th December, 1641, that preliminaries fixing time and place for the opening of the Congress were signed—not however at Cologne, but under the mediation of Denmark at Hamburg. And these were not ratified, nor the safe-conducts actually exchanged,

Safe-con-
ducts.

Prelimin-
aries.

until the 28th April, 1643, six years having been LECT. I.
 thus spent in frivolous controversies on points of
 form. I may observe that the preliminaries were
 simply *pacta de contrahendo*¹, and were therefore
 unlike the conventions so called in the present day,
 which usually relate less to the form than to the
 substantial basis of the subsequent proceedings. To
 avoid questions of precedence and for other reasons,
 two centres were chosen, Münster and Osnabrück,
 cities in the Circle of Westphalia, about eighteen
 miles apart. The French treated at Münster, the
 Swedes at Osnabrück ; but the two Treaties were to
 be considered as one. The plenipotentiaries of the
 Emperor arrived at Münster in July 1643, the first
 French envoy eight months later, on the 19th March,
 1644. The Congress being at last constituted, public Arrival of
Plenipoten-
tiaries.
 prayers for the success of its deliberations were, by
 the direction of the Nuncio, offered in all the
 churches of Münster, and lasted three days, very
 numerous and devoutly attended. A solemn and
 touching ceremony ; yet all that is solemn and
 touching in it disappears in the narrative which
 the French envoys, Avaux and Servien, both ac-
 counted religious men, sent a few days after to

¹ That is, they related to the time, place, and form of the nego-
 tiations which were to follow. Formal conventions of this kind
 have been commonly dispensed with in later times. With respect
 to preliminaries in the present sense of the word, Lord Chatham's
 rule is sound, that they should in substance approach as closely
 as possible to a definitive Treaty.

LECT. I. Mazarin, and which dwells almost exclusively on petty points of precedence, that the Nuncio had worked till twelve o'clock at night to settle—on imaginary advantages gained in the order of the procession and the arrangement of the chairs in church¹. But fresh difficulties arose on the production by the plenipotentiaries of their full powers, and seven months more elapsed before these were removed. Then more chicane on the part of the French; and it was not till the 11th June, 1645, three years and a half after the signing of the preliminaries, that the negotiation commenced by the delivery of the propositions of Sweden and France. On the preceding Whitsunday, say the *Acta Pacis Westphalicæ*², Isaac Volmar, one of the Imperial envoys (who, by the way, like both his colleagues, Nassau and Trautmannsdorf, was a convert from Lutheranism), attending early mass in the church of the Capuchins, found himself kneeling side by side with Avaux. The latter, on rising from his knees, courteously greeted his antagonist, and wished him in French a happy Whitsuntide. Volmar answered in Latin; for Latin, French, Spanish, and Italian seem to have been indiscriminately used at Münster, often in the same conversation. 'Since on this day,' he said, 'a day sacred to the Spirit of Peace, we have met in this

Full
Powers.

Commence-
ment of
Negotia-
tions.

¹ *Négoc. Secr.* ii. 21.

² I take the anecdote from Woltmann, i. 130.

place, it behoves us surely to turn our thoughts to counsels of peace.' 'I call God to witness,' exclaimed Avaux, stretching out his hand towards the high altar, 'that I hold nothing more dear than the making of peace between us. This very week you shall have our propositions.' 'Good news,' replied the other, 'peace be between us ; God will be our witness.' And so they parted with mutual expressions of goodwill.

The propositions were accordingly delivered in a few days, but they were frivolous and illusory. They were left unanswered for upwards of two months ; more than a year passed before France actually stated her demands, and three years and five months before the conclusion of peace. It was the same to the very last. When the day came on which Volmar was to announce his final acceptance of the Treaty, he had received a despatch in cipher from Vienna and had lost the key. 'Let him go to the Nuncio,' said the Savoyard minister, 'and borrow the keys of St. Peter !' Finally, at nine o'clock on the 24th October, 1648, the German deputies assembled, full of joyful impatience, at the palace of the Bishop of Münster, but waited three hours in vain, and separated ruefully at noon. A last question of etiquette was undergoing solution. They were doomed however to no more disappointments. A fresh summons soon re-convoked them to add their signatures to the momentous instrument ;

LECT. I. and, in a few minutes, shouts of joy and the roar of cannon from the ramparts announced the conclusion of peace.

Peace concluded.

Comparative promptness of modern Diplomacy.

We have witnessed during the last four years two wars and two pacifications¹. In December, 1855, Great Britain, France, and Sardinia were at war with Russia. About the middle of that month the basis of an arrangement was proposed to the Court of St. Petersburg by Austria, a neutral Power. On the 19th January, 1856, it was accepted. On the 26th February the plenipotentiaries of the belligerents met at Paris; on the 30th March the Treaty of Peace was signed; and the ratifications were exchanged on the 27th April following. I need not recall the dates of Villafranca and Zürich. The verification of the full powers, which took seven months two centuries ago, was completed in one sitting at Paris. A great contrast, certainly, in favour of modern diplomacy, which has learnt at least to discard frivolous questions of form and go straight to business. Such delays as were resorted to at Münster would be impossible now. But the negotiations of Westphalia lingered, not merely because they were conducted by a captious, peevish, punctilious diplomacy, but because on neither side was there any real desire for peace. The French and Swedes, wearied and impoverished, but superior

Causes of dilatoriness.

¹ This Lecture was delivered in the summer of 1860.

in the field, could not renounce the hope of further conquests : the Emperor could not reconcile himself to inevitable humiliation and loss ; and, supported by the resolute obstinacy which for good and for evil has always characterized his House, kept hoping against hope for a favourable turn of fortune. At Paris, in 1856, the first thing done was the conclusion of an armistice. This clearly ought, in all such cases, to be the first thing done. But at Münster the mediators could induce neither side to consent to a suspension of arms ; the negotiation therefore fluctuated from day to day with the vicissitudes of the war. ‘Ainsi,’ says Bougéant¹, ‘l’habileté des Négociateurs dans ce traité devoit consister, non pas à conclure un traité avantageux, mais à en éloigner adroitement la conclusion, en faisant tomber sur leurs adversaires tout l’odieux des retardemens. Il falloit trouver des raisons pour rejeter toutes les propositions, et imaginer des offres spécieuses qui ne pussent pas être acceptées ; faire paroître beaucoup d’empressement de conclure en retardant en effet la conclusion, et rendre ses adversaires seuls coupables d’une faute qu’il falloit partager avec eux.’

The old cathedral city of Münster, born (as its name denotes) of one of the earliest monastic settlements planted in Westphalia, and the seat of a line

Münster
during the
Congress.

¹ ii. 198.

Lect. I. of prelates who were generally offshoots of the house of Bavaria, became during the Congress a scene of lavish display, and swarmed with men of all conditions and almost every tongue. The principal streets have undergone at this day little alteration. Tall gabled houses, dating from the fifteenth and sixteenth centuries, project over the footways, which are carried through a succession of low heavy arcades¹. The noble *Rathhaus*, in which the plenipotentiaries met, is a conspicuous object, and commands the course of the main street to the point where it is closed by the huge mass of the cathedral tower. That not fewer than a hundred coaches-and-six might be counted in the town, was one of the arguments by which the French endeavoured to induce the Swedes to remove thither from Osnabrück. A train of

Social
features of
the Con-
gress.

¹ The accommodation failed however to satisfy the suite of the French mission. There are letters in the *Négociations Secrètes* which complain that the houses, though lofty and handsome externally, were mere rat-holes (*nids de rats*) within; the streets were filthy, ill-paved, and full of hogs day and night. They must also have been in some places narrow, since a gentleman belonging to the Spanish mission, in executing an elaborate bow from his coach-window, struck with his large Spanish hat an earthen jar standing in a shop for sale, and dashed it into pieces; whereat, says the malicious French narrator, he reddened and drew back hastily to escape the owner's eye. The servants of the second French envoy had a bloody affray with a personage who united the offices of executioner and scavenger of the town, because, while employed in the latter capacity, he persisted in passing by night, with his unsavoury load, through the street in which they resided.

twelve coaches-and-six conveyed the French envoys themselves when they paid visits of ceremony¹. But this splendour was confined to a few. The great majority of the deputies were German lawyers, whose masters, ruined by the war, could ill afford parade. Avaux, in his letters, speaks with slight respect of these worthy people—‘ces docteurs,’ as he sometimes calls them—as deficient in tact and knowledge of the world. Himself a zealous and industrious public servant², and sprung from a family distinguished among the *noblesse de la robe*, he was at the same time a man of wit and taste, accustomed to Courts and to the best French society: the portraits of him which exist express cleverness and vivacity, and his correspondence proves him an accomplished letter-writer. Of Volmar, who had been slack in paying him some petty civility, he writes to the Queen, ‘They tell me that the Doctor has only one shabby coach and pair and no attendants

Lect. I.

¹ ‘I was not so ill provided,’ writes Avaux to the Queen, ‘but that I took a good hour to make my entry, though I had been disappointed of thirty horses which are coming to me from Gröningen, and of some other things I wanted to show what the humblest servants of your majesty are, and that the war has not impoverished us.’ (*Négoc. Secr.* ii. 6.)

² De Retz, who knew and respected him as that acute, profligate, and candid personage did respect better men than himself, speaks of him as ‘très homme de bien,’ and as one who would willingly have given his life to serve his country by negotiating an advantageous peace. He was recalled from Münster before the conclusion of peace, and died in 1650.

LECT. I for visits of ceremony¹. Doctor Vulteiuis of Hesse Cassel occasioned much amusement by recommending Madame de Longueville to entertain herself with learning German; and Paris laughed at the idea of the lovely lady discoursing in this barbarous tongue with the Doctor in his violet gown. She in fact beguiled her time by travelling in Germany, but it has been thought that she imbibed at Münster that taste for the excitements of politics which made her, on her return home, the heroine—or, as De Retz in his Memoirs prefers to call her, the adventuress—of the Fronde. The Congress dances, said Prince de Ligne of the diplomatists at Vienna, '*mais il ne marche pas.*' The Congress of Westphalia danced also. A letter in the *Négociations Secrètes* describes one of the ballets, which seems to have been as tedious an affair as transactions of greater moment. Nor did they abstain from grosser pleasures. Intemperance had for a long time been a German vice. We hear sometimes of a '*ziemlich starker Trunk*'—a pretty hard drinking bout. Count Wittgenstein, calling one morning on Oxenstiern to transact business, was told that he had not recovered the effect of his last night's debauch². Pamphleteering abounded. There were frequent

Pamphleteering.

¹ *Négoc. Secr.* ii. 4.

² The reader may recollect Temple's lively account of what he had to undergo during his secret visit to the Bishop of Münster in 1666.

appeals to the public opinion of Europe, and more LECT. I.
 than one literary squib was attributed to a Burgundian member of the Spanish mission, Antoine Brun, who, in spite of his contempt for appearances, his torn coat and shabby equipage, played an important part in the Congress, and was a chief agent in negotiating the Spanish Treaty with Holland. Presents of money¹ appear to have been offered and Bribery.
 accepted, even in the highest places, with rather less of disguise than was usual in later times. Couriers were stopped and plundered of their despatches; the Despatches stolen.
 thick woods and wide heaths of the country, in which high roads were few, afforded facilities for this irregular way of gaining information, and there was a time when the Archbishop of Bremen's roving horse made travelling unsafe up to the very gates of Münster. More than once a French courier had the misfortune to be robbed in passing through Flanders, but the Spaniards were obliging enough to forward the letters, *open*, to their destination. Frequent disputes about precedence and controversies of etiquette Ceremonial.
 might be expected from an assemblage of the representatives of a multitude of States, many of them of doubtful rank, in a proud and ceremonious age. An infinite number of shifts and artifices were made use of, in order to obtain, or to avoid bestowing, small distinctions of place or address, to which the

¹ 'Muneribus demulcere' is Pufendorf's phrase.

Lect. I. current codes of ceremonial attached a certain value. The most pertinacious sticklers for precedence were the Dutch, who, introduced for the first time into such dignified society, had a position to establish, and insisted on being treated on an equality with the old and not less jealous Republic of Venice. Savoy claimed the same honours as Holland. The Electors of the Empire, the Grand Duke of Tuscany, Genoa (little foreseeing the position to which within two centuries she was destined to descend), would not give place to Savoy. Thus the title of 'Excellency,' Italian in its origin, unknown before the end of the fifteenth century, and at first assumed only by the ambassadors of France and Spain, became by degrees common to all ministers plenipotentiary¹. But it was only after a voluminous correspondence, and from a sense of the importance of securing his good graces, that the Venetian envoy obtained (to his 'extreme joy,' says the historian) the honour of being conducted, when he visited the French, to the door of his coach, instead of the foot of the staircase². There was much correspondence on the point whether

¹ 'We might possibly do something with one another,' complained in his vexation the envoy from Brandenburg, 'if there were no such thing as this accursed Excellencyship (wenn nur der gottlose Excellenz nicht wäre).' Pütter, *Geist des West. Fr.* p. 61.

² Avaux's version of the matter is given in one of his letters to the Queen, *Négoc. Secr.* ii. 6.

the Emperor should allow the title of 'Majesty' to the King of France. Trifles of this kind long retained their importance among diplomatists, particularly in Germany. They are now practically got rid of by the more unceremonious habits of society, by a more rational sense of the value of etiquette—in fine, by a variety of compromises and contrivances, the first beginnings of which are to be found among the records of the Congress of Westphalia. LECT. I.

Paullo majora canamus. Has this great Congress, the first of a line which has stretched through two centuries, no higher lessons for us than these? What is a Congress? what are its powers? what are its forms of proceeding?

A Congress is an assemblage of representatives of several independent States, met to treat or to consult on matters of common interest. It may be attended by sovereigns, or by envoys, who are not, strictly speaking, ambassadors but ministers plenipotentiary—a distinction not clearly understood at the time of the Congress of Westphalia. A sovereign has of course no business at a Congress unless he is really such—unless the power and interests of the State he assumes to represent are substantially as well as nominally lodged in his hands and subject to his control. Coercive authority a Congress can have none over States which are not parties to it, nor over a minority of those which are so. What a Congress is.

Lect. I. And in the regulation of its proceedings it has no other guide than convenience¹.

It is bound to no uniform mode of proceeding.

The forms of proceeding adopted at Congresses have in fact been infinitely various. They varied even at Münster and Osnabrück. At Münster the Nuncio and the Venetian envoy were mediators. Articles in writing and under seal were delivered on each side to the mediators, who, having read them, communicated them to the other side. At a later stage Mazarin sent instructions to proceed *vivâ voce*, commenting sharply on the dilatory and unsatisfactory character of a negotiation by notes, which he affirmed to be entirely new, and adding another, and, to his mind, a stronger, objection. *Litera scripta manet*: in oral discussion you may be as unreasonable as you please, and can always withdraw from an untenable position without loss of credit; but you commit yourself by resorting to pen and ink².

¹ The word 'Conference,' which is applicable to any meeting for discussion, has during the last thirty or forty years been used, probably as more flexible and unostentatious, to designate meetings which would formerly have been called Congresses. The latter term will probably be reserved in future, if employed at all, for assemblages extraordinarily numerous, or of extraordinary importance.

² 'La plus forte raison qui a toujours obligé d'en user comme l'on marque c'est que les déclarations que l'on fait par écrit engagent trop, ce qui n'arrive pas lorsque les instances se font de vive voix, parce qu'encore qu'on demande ou refuse des choses extravagantes l'adresse des Médiateurs fait enfin joindre les Parties, et l'on peut se relâcher sans déchet de réputation.' (*Négoc. Secr.* ii. 46.)

A consideration which would be less important at the present day than it was at Münster and Osnabrück, where the whole negotiation was carried on as people drive a bargain in Italy or Spain, and the terms on which the parties really meant to insist were approached by degrees under cover of a series of feints and artifices. At Osnabrück there were no mediators (the Swedes having got rid of the King

LECT. I.

At Nymegen, where the French plenipotentiaries refused to negotiate in writing, they gave another reason. 'They were positive to give no answer in writing nor to receive any, alleging both reason and example for their opinion; *this* from the practice of the Münster-treaty, *that* from the danger of the invective style or language that are apt to enter into the writings of each party upon such occasions. The allies were for some time as peremptory in their resolution of delivering their answers in writing; but both at last agreed upon the expedient we proposed of dictating to us what they intended should be said to the other party, of our setting the substance down in writing, and reading it over to them first who dictated to us, so as they might be judges whether we had rightly apprehended and expressed their meaning, and yet the thing might go in our style and not in theirs, by which all sharpness and provocation would be avoided.' (Temple's *Memoirs from 1672 to 1679. Works*, i. 323.)

Bacon had written, in his 47th Essay, 'It is generally better to deal by speech than by letter; and by the mediation of a third than by a man's self. Letters are good when a man would draw an answer by letter back again; or when it may serve for a man's justification afterwards to produce his own letter; or where it may be danger to be interrupted or heard by pieces. To deal in person is good, when a man's face breedeth regard, as commonly with inferiors; or in tender cases, where a man's eye upon the countenance of him with whom he speaketh may give him a direction how far to go; and generally, where a man will reserve to himself liberty either to disavow or to expound.'

LECT. I. of Denmark, who was unfriendly to them, by declaring war against him); the propositions, still in writing, were exchanged directly, a secretary of legation, attended by two *cavaliers d'ambassade*, carrying them to and fro. At Nymegen, in 1676, the King of England and the Pope undertook to mediate; at Ryswyk, the King of Sweden. Sometimes there have been general conferences (short minutes of each being drawn up at or after the end of the sitting, and called a protocol); sometimes partial ones; sometimes none at all, the whole negotiation being conducted by the interchange of written notes. It is, and must always be, a simple question of convenience, and in each case that method will be best which best provides at once for deliberation and despatch, for precision of statement and free and temperate discussion.

It has no
coercive
authority.

That a Congress, however numerous, has no proper coercive authority, needs no proof. The power of a majority to bind a minority exists only where it has been created by law or by voluntary agreement. But no independent State ever did, and it is unlikely that any such State ever will, submit its rights and interests to the vote of an assemblage of its fellows. On the contrary, the rule has become firmly established that even engagements deliberately made by a plenipotentiary who has neither exceeded his powers nor disobeyed his instructions are not absolutely binding till ratified by the sovereign

whom he represents; and this rule, which sets ordinary legal analogies at defiance, has been dictated by the imperious sense that the interests confided to the sovereign's keeping cannot be too jealously guarded. No power therefore of collective decision is lodged in a Congress, for such a power cannot be exercised otherwise than by a majority: a dissentient cannot be overruled; the rights of an absent party cannot be overridden; such determinations as may be arrived at are the determinations only of those who accept them, and they are neither more nor less valid than they would have been if the assembled ministers had stayed at home. The fact of their having emanated from a Congress clothes them, in the view of International Law, with no peculiar sanctity, and arms them with no transcendent force. X

There has been a reluctance, it is true, to be content with this plain view of the subject. The show of power which surrounds a Congress suggests the idea of authority—that is, of a right to exercise power. The want of authority, where it does not exist, is often felt by those who would themselves be extremely unwilling to submit to it, and this is eminently the case among civilized nations. For there is a constant tendency among them towards the formation of an organized society; and this tendency, springing from their various intercourse with one another, and from the substantial interests

Lect. I.

Disposition
to ascribe
authority to
a Congress.

LECT. I. which are really common to them all, and increasing with their advance in civilization, is as constantly arrested by the want of those things which are necessary to the social condition—Law, in the ordinary sense of that word, and the means of making, interpreting, and enforcing Law. These notions, so familiar and so thoroughly established in the interior of each separate community, we are unable to apply to that larger commonwealth of which States are the immediate units, but to which in truth we all belong; and their place has to be supplied by lame and imperfect substitutes. And thus the absence of an authority to make rules, to arbitrate, to stamp as valid transfers of territory and changes of possession, is from time to time keenly felt, now by one Power, now by another, and a semblance at least of the thing desired is sought in a Congress. A medley of claims and grievances, some of a public, some of a merely private character, were carried—vainly indeed, for the most part—in the seventeenth century to Münster, in the eighteenth to Utrecht, and in the nineteenth to Vienna, as to great tribunals competent to entertain all complaints and redress all wrongs. And there have been causes since 1815 which have helped to foster this lofty estimate of the powers of a Congress, such as the tendency, observable everywhere, towards the centralisation of force, false inferences drawn from the history of the Congress of Vienna, and the position

of general superintendence which the great Powers LECT. I.
 assumed after the fall of Napoleon and continued
 to assert as long as they could agree. Nevertheless
 it cannot be too clearly understood that the use
 of a Congress lies, not in the superior weight or
 authority with which its acts are invested, but
 in the facilities which it affords for coming to an
 agreement: it is only one out of many modes
 of negotiating, and its functions are to remove dif-
 ficulties, settle details, and bring about the accession
 of parties having various interests to one set of
 terms.

As a mode of negotiating, it has some obvious Advantages
and disad-
vantages of
this mode
of negoti-
ating.
 advantages, which the invention of the electric
 telegraph has diminished but not destroyed. Dif-
 ficulties which are found insurmountable in a cor-
 respondence often disappear in an interview, and
 in every negotiation, public or private, more than
 half the work is done when the parties have been
 brought to the point and forced to understand one
 another, and it has been ascertained what each really
 wants and with what terms he is prepared to close.
 But the advantages are probably less than we might
 suppose them to be, and they are coupled with some
 quite as obvious inconveniences. A meeting of
 twenty or a dozen persons is not an interview; oral
 discussion loses in so large a circle its quick and
 flexible movement; and, in bringing face to face

LECT. I. the representatives of a crowd of separate interests, in offering to every slumbering grievance and obscure pretension an opportunity of making itself heard, there are other risks beside that liability to be surprised or tired into ill-advised concessions against which very able men find it sometimes difficult to be completely on their guard. The two temptations which almost inevitably beset a knot of considerable Powers assembled by representation in one place—the temptations to interfere where they have no right, and to contract engagements in enforcing which they have no substantial interest—are the more insidious because the cases in which a moral right to interfere exists, and the quantity of interest sufficient to support a Treaty, can never be defined by general rules. Such questions, like most other questions of conduct, must be settled, as they arise, by an exercise of judgment, assisted by current opinion and past experience. The constitution of Germany has been twice settled at a European Congress; the first time, with the assistance and under the predominant influence of France—the second, with the assistance and subject to the approval of France, Russia, and Great Britain. France, in the seventeenth century, was pursuing her fixed and avowed purpose of keeping Germany disunited; the three great Powers, in the nineteenth, were thinking only of what they called the equilibrium of Europe. And not only has foreign influence had

a share in framing successive constitutions for Germany; foreign Powers have been parties to the instruments in which those constitutions have been embodied. France, by becoming a party to the Treaty of Münster, acquired a perpetual claim to interfere in German affairs; the Federal Act of 1815, a transaction purely and exclusively German, was stripped of that character by being thrust into the Final Act of the Congress of Vienna. What was really best, as I conceive, for France in the seventeenth century—what was certainly best for Europe in the nineteenth—was, that Germany should be constituted in the manner most advantageous to herself, and of that the best judges were the Germans; Treaties which may be construed as giving a voice in that matter to Great Britain, Russia, or France, are delusive, and, because they are delusive, mischievous. For of this we may be sure, that men will always insist, when they are strong enough to do it, on the right to manage their own affairs. But I am sliding into a digression which would carry me far beyond the limits of my subject: let me only add, before returning to the Treaties themselves, one or two remarks which the history of past Congresses suggests to the reader. The determinations of a Congress, whatever its numbers or composition, are practically those of the strongest among its members, strength being understood to mean, not mere bulk, but force capable of being readily

LECT. I. exerted coupled with resolution to use it. Questions in which they are keenly interested are settled, if they can agree, and settled according to their interests. Questions which interest them feebly or not at all are apt to be set aside, or receive languid attention. And thus a great Congress, with its imposing array of envoys, most of them fruitlessly busy or waiting for opportunities which never arrive, and its parade of public conferences at which nothing is done except by previous arrangement, commonly leaves much dissatisfaction behind; and the history of Congresses is on the whole eminently unsatisfactory. They have seldom done great or lasting good; sometimes they have done serious evil; again and again they have done nothing at all. The questions they were called to solve have been disposed of in other ways, as by direct communications, exchanged in writing or through confidential agents, between the Governments chiefly concerned: the plenipotentiaries have been employed in chaffering about details, while the true centre of negotiation was elsewhere. The ability of such a body to do either good or harm is in fact less than it at first sight appears. The giant strength which, if united, it would really wield, is chained down, broken, and paralyzed by mutual distrust and jealousy, by particular engagements and conflicting interests; and these causes, while they incapacitate it on the one hand for the assumption of a tyranny, and on the

other for those beneficent offices which might belong LECT. I.
 to a great international Court of Appeal, throw open
 the door to meaner agencies, to intrigue, finesse, and
 the profitable exercise of mere personal adroitness,
 to selfish coalitions, to bargains and jobs on a great
 scale. These considerations, far as I admit them
 to be from exhausting the subject, point to a practical
 conclusion. A clear previous understanding
 as to the nature of the questions to be discussed,
 and a reasonable prospect of their being discussed
 with advantage, are conditions ordinarily essential
 to every meeting for the transaction of business. A
 Congress is distinguished from other meetings chiefly
 by the magnitude of the issues it has to deal with ;
 for all things that concern nations are great, and
 of these only the more important would commonly
 be held to justify a recourse to this mode of
 settlement. The risks which wait on failure are
 always serious, often very formidable, and they demand
 that the probability of success should be high,
 the common interest in coming to an agreement
 strong, and the limits within which conflicting interests
 may be pressed pretty well ascertained.

The work of the Westphalian Congress was a General
plan of a
Treaty of
Peace.
 Treaty of Peace. A Treaty of Peace, if you dissect
 it, commonly divides itself into several distinct parts. Framework
of the
Treaties of
Westphalia.
 First, there are what diplomatists have called the
 'general articles'—a declaration that peace is restored,

LECT. I. and a clause or clauses of 'amnesty;' the latter phrase, when used in this connection, embracing, beside what we commonly understand by it, the restitution of such conquests as are not intended to be retained and of rights which the war has suspended or interrupted, and the release of prisoners on both sides. Secondly, there are the provisions judged necessary to remove the causes out of which the war arose, redress the grievances complained of, and prevent the recurrence of them. This is the one essential thing which the negotiators have to do, and the pacification is hollow and imperfect if they fail to do it cleanly and effectually. Thirdly, there is the indemnity or satisfaction exacted by the stronger belligerent for the injury sustained and for the cost of the war. Lastly, provision is made for the due execution of the foregoing stipulations. Every Treaty of Peace does not contain all of these, much less do they uniformly occur in the same order; but of one which is complete in all its parts this is the general scheme. Indemnity or satisfaction there may be none, if the conqueror's moderation, or his prudence, dissuade him from demanding any, or if the balance of strength has been too nearly even to render such a demand practicable. There is none, for instance, in our latest example of a pacification, the Treaty of Paris 1856, the body of which is wholly composed of articles framed with care to annihilate those assumed causes of quarrel

between Russia and the Western Powers which had LECT. I.
 been previously summed up in the famous 'Four
 Points.' The two Treaties of Westphalia, which for
 our present purpose may be regarded as one, have
 all the parts which I have enumerated arranged in
 regular sequence, digested into articles which are
 broken up into subordinate clauses, and thus worked
 out in minute detail¹. The article of amnesty and
 restitutions has fifty-seven distinct clauses, and that
 which relates to religious grievances fifty-eight, and
 all these are identical in both Treaties. I shall at
 present refer only, and that very generally, to the
 two groups of articles which embraced, in the lan-
 guage of the Congress, 'the removal of grievances,'
 and 'the satisfaction of the Crowns.'

The satisfaction of the two Crowns of France 'The Satisfaction of the Crowns.'
 and Sweden, though it does not come first in the a. Cessions to France.
 Treaty, had filled the most important place in the
 previous negotiations. When that was settled, and
 not before, peace was virtually made. For the States
 of the Empire, the clients and reluctant allies of
 France, speedily discovered that, though their great
 patroness had generously waged war for an idea—
 though she had lavished blood and treasure to abate
 the power of the House of Austria and to secure

¹ The arrangement is less distinct in the Treaty of Münster than in that of Osnabrück.

Lect. I. a federal constitution to Germany—she was not the less determined to exact payment for her services in hard tangible coin. ‘Rien,’ says the Jesuit historian Bougéant, in whom the Jesuit is often mastered by the Frenchman—‘rien n’étoit plus glorieux à la France que d’avoir pris les armes pour rétablir les Princes opprimés, défendre ses Alliés, et rendre au Corps Germanique son ancienne liberté ; elle y trouvoit même un assez grand intérêt, qui étoit d’affoiblir par-là la puissance de la Maison d’Autriche ; mais il n’est point d’usage parmi les Princes de rendre de si grands services à des Etats voisins sans en tirer quelque avantage personnel, et le parfait désintéressement est une vertu que le Cardinal Mazarin ne connoissoit pas¹.’ Her first appearance in the same character ninety years before had been signalised by the seizure of the Three Bishoprics, scattered patches of valuable territory within the Duchy of Lorraine, on the upper waters of the Meuse and Moselle, held by the sees of Metz, Toul, and Verdun, and including the old free city of Metz. The reward she now bargained for consisted in the recognition of those conquests and the cession of all the rich plain between the Vosges and the Rhine², of Brisach on its farther bank,

¹ iii. 59.

² The ambiguities in which the cession of Alsace is enveloped are well discussed in Schoell. I agree with him that it is impossible to assign to the article and act of cession any clear and consistent meaning. They are evidently the joint handiwork of

(with the right of keeping a garrison in Philipps-
 burg), and of Pignerol, far down on the southern
 slopes of the Alps. Antwerp, Mentz¹, and Aless-
 andria were regarded by the first Napoleon as the
 three keys of his empire. Brisach was the Mentz
 of the seventeenth century; it had for many years
 been coveted as the fortress which opened or closed
 the way to central and southern Germany², and
 Pignerol as commanding in like manner the ap-
 proach to Italy. It was of Pignerol that Henry
 the Fourth had used to say, it was a good thing
 to have a door of access to your neighbour's house.
 Mazarin, at the time when he got Brisach and
 Pignerol, had not yet abandoned the project of wrest-
 ing Antwerp with the whole Spanish Netherlands
 from Spain. That project was not surrendered till the
 conclusion of the Peace of the Pyrenees, and then only
 to be revived at the first favourable opportunity.

LECT. I.

persons who had opposite aims and did all they respectively could
 to bend the same instrument to opposite constructions. Servien's
 dictum, 'que l'on aurait toujours assez de droits pour les faire
 valoir avec l'épée,' was, no doubt, a just expression of the French
 view of the matter. The previous state of possession in the dis-
 puted district is well described by Pütter, *Geist des Westphälischen
 Friedens*, Part II. Bk. I. c. vi.

¹ On the military importance of Mentz, see Kneesebeck's paper
 in the Appendix to vol. iv. of *Stein's Leben* by Pertz. This paper
 was prepared with reference to the possible separation of Germany
 into a northern half and a southern.

² The cession of Brisach became eventually the 'nœud de la
 paix.' (Bougéant, iv. 253, where the artifices by which it was
 extorted are described.)

LECT. I. Sweden, for her share, acquired large German territories and a place among the States of the Empire, and took among the great Powers of Europe a rank to which these new possessions, added to her recent conquests from Poland, Muscovy, Denmark, and Norway, amply entitled her, but which, in little more than half a century, she was destined to lose. Long ago she has retired to her natural position, that of a peninsular and purely Scandinavian Power. The subsequent history, however, of both the French and the Swedish conquests you may read in Schoell, and it will enable you to form your opinion of the policy which made those conquests objects of ambition.

h. Cessions to Sweden. At this heavy price Germany bought the objects for which during thirty years she had given herself up to the unbridled brutality of mercenary armies and to devastation by sword and fire. She obtained the removal of her 'gravamina,' political and religious; and, whatever may be thought of the transaction as a whole, there can be no doubt that the pacification, so far as it dealt with the original causes of the war, was effectual and complete. For Germany it did two things. It fixed and petrified in a remarkable manner the relations, till then fluid and unsettled, of Catholicism and Protestantism towards each other. The rude expedient of picking out a particular year (1624)—nay, where this was

'The Removal of Grievances.'
a. Settlement of questions connected with Religion in Germany.

practicable, a particular day in that year (the 1st of LECT. I.
January)—and restoring and perpetuating the state of possession which had existed at that point of time, was applied to ecclesiastical foundations and church property of every kind, and, so far as it could be done, to all the various objects of contention for which Catholics and Protestants had been struggling. Bishoprics and chapters (not included in the mass of church property confiscated to indemnify Brandenburg, Mecklenburg, and Brunswick for what they had to resign to Sweden), parish-churches, hospitals, schools, were to remain for ever in Catholic or in Protestant hands, or partly Catholic and partly Protestant¹, as they had chanced to be in the ‘definitive year.’ What at that epoch, selected arbitrarily though after long dispute, had been written in sand, was cut in stone by the Peace of Westphalia. In the Diet of the Empire the equality of the two creeds was secured by the ‘jus eundi in partes,’ or *Itionsrecht*, which, in all matters concerning religion directly or indirectly, superseded the power of the majority, resolved the whole Diet into two ‘corpora,’ as they were called, Catholic and Protestant, and left the matter in dispute to be settled by arrangement or not at all². For individual free-

¹ Thus to the close of the last century there were six Catholic Canons out of the sixteen at Halberstadt, and eleven out of eighteen at Minden.

² The clause extended this right still further, viz. to all matters

LECT. I. dom of opinion very imperfect provision was made. X

Where in the normal year there had been Protestants in a Catholic territory, or Catholics in a Protestant, enjoying either the public or the private exercise of their religion, they were to retain the same privileges in future. Where this had not been the case, toleration was to be the rule in future; X
 dissidents were to be deprived of no civil rights, and permitted to say their prayers at home—‘conscientiâ liberâ domi devotioni suæ privatim vacare.’
 But even these provisions did not extend to the hereditary dominions of the House of Austria. Nor did the Treaty prohibit—indeed it implicitly sanctioned—those enforced emigrations which have more X
 than once excited in other European countries such lively feelings of compassion and indignation. When in 1685 the inhabitants of the Tefereggenthal, of all the upland valleys of the Tyrol the most primitive and secluded, were driven from their homes—when in 1731 thirty thousand peasants from the vale of the Salza were expelled at once to seek new homes in Prussia, Holland, and America, no appeal could be made to the German charter of religious freedom.

‘ubi Status tanquam unum corpus considerari nequeunt’—for instance, as Zachariâ suggests, wherever ‘jura singulorum’ were in question. The Protestant States had recourse to the *Itionsrecht* at the beginning of the Seven Years’ War, when it was proposed by Austria to put Frederick the Great, as Elector of Brandenburg, under the ban of the Empire.

Nor, although the 'Reformed' or Calvinist sect was admitted for the first time to a place beside 'those of the Confession of Augsburg,' was any protection accorded to such Protestants as might not conform to either of these two recognized forms of Protestantism.

LECT. I.

To understand this part of the Treaties of Westphalia it is necessary to take into account the state of feeling which existed at the close of the Thirty Years' War, and the causes which had produced it. Time had transformed and weakened the great religious movement out of which the war arose, and it had given way to a passionate desire for rest and peace. Settled ideas, common to both Catholics and Protestants, about the rights and duties of the temporal ruler in matters of church government, had been undermined and shaken, but not overthrown, by the active principle of the Reformation, the principle of private judgment. A long struggle, animated at once by very high and very sordid motives, and carried on with the coarsest instruments, had left its effects behind; whilst in every part of Germany the unchecked operation, from an early period, of causes which were by no means confined to Germany had entangled, in a manner unknown elsewhere, ecclesiastical powers with temporal, and, by aggrandizing Churchmen, had injured and debased religion. The chief sees and many of the lesser ones had become temporal principalities;

Observations on this.

LEIT. I. the chapters were closed except to men of noble birth ; the bishops were younger sons of the greatest houses¹. From 1562 to 1760 an unbroken succession of Bavarian princes held the Archbishopric of Cologne, often uniting with it other sees. For a long time before the Peace of Westphalia the ducal house of Schleswig-Holstein had given bishops to Lübeck, that of Mecklenburg to Schwerin, that of Brunswick Lüneburg to Halberstadt, those of Schwerin and Brunswick alternately to Ratzeburg. A Brandenburg prince had occupied the Archbishopric of Magdeburg ; a prince (afterwards king) of Denmark that of Bremen, till it was conquered by the Swedes ; and a kinsman of the Elector of Bavaria, sprung from an unequal marriage, was driven from Osnabrück to make room for a bastard son of Gustavus Adolphus². The records

¹ According to *Aeneas Sylvius* (quoted by Ranke in the Introduction to his *History of the Reformation*), the Popes encouraged this practice, as a means of keeping the chapters under control.

² He in turn was deprived by the Peace and consoled with a sum of money, and it was settled that the see should in future be held by a Catholic and a Protestant by turns, the Protestant being always a younger son of the family of Brunswick-Lüneburg and having no ecclesiastical character or functions. This was all that the industry of the Bavarian bishop, Franz Wilhelm von Wartenburg, could secure, and the reward of the eighty-five visits which he reckoned himself to have paid to the French plenipotentiaries. Under this singular arrangement, which endured for a century and a half, the town and territory of Osnabrück, with the titular dignity of Bishop, were held by several princes of the Lüneburg or Hanoverian line. The father of George the First of England was a younger son and Bishop of Osnabrück during the earlier part

of English episcopacy and the rolls of our great monasteries are full of homely village surnames, names of small gentry, yeomen, and even peasants. How different a tale is told by the walls of a German cathedral like Würzburg or Mentz¹! The ecclesiastical duties of these personages were commonly performed by deputy; and the canons, when resident, were employed in administering the civil government, in which they had generally a much larger share than the bishop himself. The bargainings for this bishopric or that abbey, the haggling about one stall more or less at Strasburg or Halberstadt, which occur in the negotiations for the Peace, were defended on the express ground that these endowments had been founded

of his married life; he eventually became head of his house and Elector of Hanover. George the First himself died in his carriage on his road to Osnabrück, then the residence of his younger brother. The Duke of York, second son of George the Third, was the last reigning Bishop. By the Recess of 1803 the territory was assigned to Brunswick-Lüneburg absolutely: it was subsequently included in the short-lived kingdom of Westphalia, and after 1815 formed part of the kingdom of Hanover.

It has been common in other countries for church-preferments of certain kinds to be conferred as payment for service rendered in secular employments, or to be obtained by family or court interest, or bestowed as gratifications to political adherents, the practice varying with the habits and the current morality of the time. The great see of Paris was held, as a bishopric and afterwards as an archbishopric, by cadets of the Gondy family in succession for nearly a hundred years. But there is a difference between the injury which these practices do to religion, and the injury done to it by institutions such as grew up in Germany, and would have grown up, but for counteracting circumstances, in England and France.

LECT. I. by the German princes and nobles for the support of their posterity in their own rank. 'A family,' says a cautious and dispassionate writer in the eighteenth century¹, 'which after many generations has once the good fortune to see an ecclesiastic of their house raised to the dignity of a Prince, is very often relieved from the incumbrance of debts, which have been accumulating perhaps for more than a century, or else raised to such easy circumstances that they may promise themselves a flourishing state for centuries to come; and even if they do not succeed to the mitre, yet canons in many foundations may possess at the same time such profitable benefices that, if they are only moderate economists and on friendly terms with their relations, they may always leave them considerable legacies and procure them other advantages.' Secularisation—the word is of French invention, and appears to have been first uttered by the French plenipotentiaries in 1646—was the inevitable destiny of these anomalous institutions, in which the world had certainly a far larger part than the Church. Of those which survived 1648 all perished in 1803, at which period they were computed (abbeys and lesser foundations included) to exercise dominion over more than 2,000,000 souls. Generally speaking, though there were exceptions of all kinds,

¹ Pütter, *Historical Development of the present Political Constitution of the Germanic Empire* (translated by Dornford), ii. 187.

it was the lax and not illiberal rule of men unstained Lect. I.
by gross vices, with some care for education and
some taste for literature and art, but fond of ease
and of money, absorbed in family interests, and with
no adequate inducements to govern well.

The importance of this settlement, and the in- Its effects.
fluence it has since exercised upon the religious
condition of Germany, were undoubtedly very great.

The main struggle of the war—the struggle whether
Protestantism, in those German countries where it had
not been already trampled out, should live or die—
had been decided by the early triumphs of Gustavus
Adolphus and the final exhaustion of the Imperialists.
The Peace ratified that victory; and it
assigned to each of the rival Confessions the possession
of a mass of endowments, rights, and authorities,
ecclesiastical and civil, and made that possession
secure. The contest between them, so far as it
was a contest for these things or was animated by
the hope of obtaining them, ceased with the Peace
of Westphalia. We shall not be disposed to under-
estimate the effects of such a settlement if we
observe how small in different European countries,
during the last three hundred years, has been the
ability of either Protestantism or Catholicism to win
ground from the other—how inconsiderable are the
conquests actually made by either of them—how
little power, under ordinary circumstances, each has
shewn to make head, I do not say against resolute

LECT. I. unflinching oppression, but against such forces as habit and education, the influence of property, and mere aversion to change. The surge of a great religious movement overwhelms such forces, and sweeps away whatever rests merely on the support they lend. Protestantism, in 1648, was still the advancing wave, but its strength was almost spent. It has often been said that the Peace gave a great advantage to the Catholic body by the disproportionate quantity of wealthy foundations which it secured to them; and it has been observed that, whilst conversions to Protestantism among members of reigning Houses have been almost unknown since 1648, there have been many such conversions to Catholicism. The general effect, however, of these appears to have been slight; if we except the notorious case of the Calvinists of the Palatinate—those ‘poor Palatines,’ who were reproached with bringing wretchedness and disease to London in the reign of Queen Anne. The settlement itself, precarious as it might appear to us at the present day, proved permanent, and the imprint which it left on the face of Germany has not been obliterated even now.

b. Political
constitu-
tion of the
Empire.

The second thing which the Peace did for Germany was to fix for many generations to come her political constitution. The causes which in that country had successfully combated the growth of the kingly power, causes which lie on the surface of

history, had wellnigh passed away before the beginning of the Thirty Years' War. The Imperial Crown, though still nominally elective, had become virtually hereditary in one family: the title of Cæsar, though it was retained, had long ceased to allure the wearers of it to remote enterprises south of the Alps: the Spanish and Flemish dominions which had engaged so much of the attention of Charles the Fifth had passed to another branch of the house; while the Emperor, from being one of the weakest of the German princes, had become the greatest and most powerful. But centuries of feeble precarious rule, growing feebler and more precarious while royal authority elsewhere was making its greatest strides, had done their work. The grasp which the immediate lords of the soil, great and small, had gradually laid on all the substantial attributes of sovereignty had become a firm and solid possession, fortified by long usage and by solemn and multiplied compacts. The Reformation, by dividing Germany into two adverse camps, had created a new bar to consolidation, which the Emperors themselves had strengthened to the utmost by their zealous and intolerant espousal of the Catholic side. The addition also of Hungary and Croatia to the large mixed populations which the princes of the 'East-mark' had collected under their loose but arbitrary sway, and which now composed the Austrian hereditary states, had begun to draw

LECT. I.

LECT. I. away the Austrian Emperors from Germany and its interests, and seemed to trace for them a different career from that of German sovereigns. We need not therefore dispute the justice of the opinion, commonly maintained by Prussian writers, that the success of the Imperialist arms would not, even if it had been unchecked, have led to a real consolidation of Germany. Consolidation indeed, as we now understand the word, the Hapsburg Emperors, if we may judge from their history, would probably not have attempted at all. But, be this as it may, the facts remain that the tide of success was turned, and † the last great effort to make the Imperial authority a reality was defeated, not by the Germans themselves, but by Sweden and France in the Thirty Years' War, and that the Treaties of 1648 have ever since been regarded as having permanently settled the relation between the States of the Empire and their head.

Subsequent
condition
of the
Empire. †

The political body which those Treaties left standing was still, in form, a monarchy attenuated to a shadow; in substance, it was a federal organization, though united by no regular federal tie¹; and it

¹ 'Nihil ergo,' said Pufendorf, in his treatise *De Statu Imperii Germanici*, published in 1660 under the pseudonym of Severin de Monzambano—'nihil ergo aliud restat quam ut dicamus Germaniam esse irregulare aliquod corpus et monstro simile, siquidem ad regulas scientiæ civilis exigatur, quod lapsu temporum, per socordem facilitatem Cæsarum, ambitionem Principum, turbulentiâ Sacerdotum, ex regno regulari in tam malè concinnatam

had the infirmities to which federations, as such, are liable without their proper virtues. It provided no solid security for the maintenance of separate rights,

Lect. I.

formam est provolutum ut neque regnum etiam limitatum amplius sit, licet exteriora simulacra tale quid præ se ferant, neque exactè corpus aliquod aut systema plurium civitatum fœdere nexarum sed potius aliquid inter hæc duo fluctuans. . . Ergo commodissimè Statum Germaniæ possimus designare quod proximè accedat ad systema aliquod plurium civitatum in quo unus velut Princeps aut Dux fœderis emineat simulacris Regiis vestitus, quod tamen corpus atrocibus morbis agitur.' (cap. vi.) Among German historical writers of the present day it is common to refer to the Empire as a federal body or system. So Häusser, who, in the first Book of his *Deutsche Geschichte vom Tode Friedrichs der Grossen bis zur Gründung des Deutschen Bundes*, has given a full and careful description of the state of the Empire after 1648; and Stern, *Deutsche Geschichte im Zeitalter der Französischen Revolution*, Lect. i. For the distinctions drawn by publicists the reader may conveniently refer to Schoell, c. xxxii. sect. 1, and to the concise and accurate account, from a jurist's point of view, given in the first volume of Zachariä's *Deutsche Staats- und Bundesrecht* (Göttingen, 1865). The real working however of the old institutions is best gathered from contemporary descriptions, such as those in Pütter's *Geschichtliche Entwicklung*, of which Häusser has made good use; and it is not uninteresting to compare, for example, the proceedings of the Imperial Diet of 1757 with that of the Federal Diet in 1866, the two occasions on which, by the influence of one of the great German Powers, a 'decree of execution' was obtained, and attempted to be enforced, against the other, with results, in the first case, ignominious to the Empire, in the second, fatal to the Confederation. This is not the place to enter into the distinctions between a national organization, a federal organization, and one which partakes of both characters at the same time. But it may be observed that the general legislative authority lodged in the Emperor and Diet, and the judicial power (limited, but not inconsiderable) vested in the Imperial Chamber and Aulic Council, were paralyzed, not only by the defective con-

LECT. I. no effective machinery for the transaction of common affairs and the protection of common interests. Of its constituent members the great majority were too diminutive to secure those objects for which political

stitution of those bodies, but by the want of a common and efficient executive. Sovereignty is the supreme power of making laws and issuing temporary commands, and enforcing such laws or commands, within a political society. Doubtless, in the contemplation of a jurist, an inhabitant of Brandenburg, Bohemia, or Hesse was subject, not only to the *Landeshoheit* of his own Elector, King, or Landgrave, which he felt continually, but to a paramount sovereignty, which he never felt at all, vested in the Emperor and Empire. Decrees of the Diet might be binding on him directly; sentences of the Imperial tribunals might directly affect his legal rights. But there were no adequate means of enforcing such decrees, and therefore the Diet rarely attempted to make them, and, when it did, they generally turned on trivial matters. Thus it made repeated and fruitless endeavours in the eighteenth century to put down the journeymen's custom of keeping 'Saint Monday' (*blauer Montag*). After 1663, its ordinary action, when it acted at all, was that of an anomalous kind of standing Congress composed of delegates from a crowd of independent potentates. The 'reservata,' or reserved rights, of the Emperor were practically null for a like reason, beside being insignificant in themselves. The Emperor therefore was not actually sovereign, nor were the Emperor and Diet sovereign. Germany contained a number of Governments, which, for all practical purposes, were severally sovereign within their respective territories, though a jurist might dispute the accuracy of calling them such—bound together by an organic connection which was historically and theoretically important, but really ineffective and frail, and acknowledging a common superior, who, with a splendid title, had a merely nominal authority. The action of the Emperor and Diet was practically confined to matters of common interest, and in dealing with these it was crippled by want of power. This is what is meant by saying that the organization of the Empire was in substance federal, and that as a federal organization it was inefficient.

societies exist and Governments are armed with LECT. I. power. The pacific policy, the freedom from heavy taxation, the personal and local attachments, which are often to be found in very small communities, even that absence of movement which makes them the home of whatever is quiet and old-fashioned, has caused them to be regarded with a certain tenderness whilst it has made them a mark for ridicule, and these characteristics belonged to many of the little principalities of Germany. But even the larger among them were generally too confined for the growth of a healthy public opinion and an enlarged public spirit, too small to contain that variety of resources which is found necessary, as civilization advances, for industrial and commercial progress. Scattered over a wide tract of country, among decaying towns, to which accident had given like privileges, and the territories of greater potentates, were some fifteen hundred gentry, needy for the most part, because without means of providing for their children, and often overwhelmed with debt, whose tenants were their subjects, and over whose estates no higher authority had power. All those things which we now know to require a large area of superintendence because they demand uniformity of administration, such as currency, posts, customs, the regulation of trade, the means of external defence, the very right of contracting alliances with foreign Powers, were left to the caprice of Govern-

LECT. I. ments whose territories might even then be traversed at the rate of half-a-dozen in a day. These astonishing obstacles to good government and the healthy development of national life were the 'Deutsche Freiheiten,' the German liberties, which it was the fashion to hold sacred in the seventeenth century, and to treat with traditional respect in the eighteenth. The independence of the States was the ruling principle, and it overbore altogether that sense of a common interest in which the life of a Confederation resides. But such independence is self-destructive. Weakness and disunion are fatal to independence, and the constant condition of Germany was one of weakness and disunion. The free towns and 'immediate' nobility looked to the Emperor for protection against neighbours a little stronger than themselves, and these again looked to a foreign Power for protection against the Emperor. By practising on their cupidity or their fears, by humouring their petty ambitions and fomenting their jealousies, it was always in the power of France to secure clients and allies in Germany, especially among the principalities, ecclesiastical and secular, bordering on the Rhine. The results of this settlement, after it had endured for a century and a half, are recorded in the disasters of the first Coalition War against the French Republic, in the shameful Peace of Basle, the defection of Saxony and the South German States in the war of 1796, the cessions of Campo

Formio and Luneville, the negotiations of Rastadt, Lect. I.
 the great Partition of 1803, the formal acceptance
 of a French protectorate by the Confederation of
 the Rhine. During that period the growth of the
 Electorate of Brandenburg into the Kingdom of
 Prussia, a State of the first order, had made good,
 as some thought, the great defect of the Treaties
 of Westphalia; it had supplied within Germany
 itself that counterpoise to Austria which had for-
 merly to be sought for beyond the Rhine—a
 counterpoise indeed which was more than effectual,
 since it threw back Austria herself into the arms of
 her ancient foe. Two great military monarchies thus
 divided, or disputed, the mastery of what was still
 called the Empire; whilst eastward, where in 1648
 the eye of a politician discerned only the Kingdom
 of Poland, wide, ungoverned, warlike, but never
 formidable except as a theatre of discord and a source
 of strife, there had arisen a vast dominion, whose
 rulers, Germans themselves in their connections,
 Germans after 1762 by origin, and generally served
 by Germans, soon sought and exercised a weighty
 influence in the country through which their access
 to Western Europe lay. The federal organization
 which crumbled to dust in 1806 was in substance
 revived, under a new name and with new machinery,
 nine years later under the auspices of another Con-
 gress, that of Vienna. But the separatist influences
 which had been so strong in 1648 were doubly strong

Condition
 of Germany
 since 1815.

LECT. I. in 1815. The old traditions of an august monarchy, a common Sovereign, common laws and obligations, had been broken ; even the old homely titles, such as 'duke,' 'landreve,' 'mark-reve,' and the like, which German princes had been content to bear since the remote period when their predecessors were really but captains-general or chief magistrates in their several districts, had been thrown aside ; and the Kings and Grand Dukes who met at Vienna, jealous of their gaudy dignities and new acquisitions, had nothing so much at heart as to maintain within the ancient boundaries of the Empire a little Europe of their own, with its play of international politics and miniature balance of power. They succeeded ; they could not but succeed, for Germany, as Metternich perceived, was ripe for nothing else¹. The independence of the States was written at the head of the Federal Act ; and Germany has ever since been only a little Europe as to the relations held by its Governments towards each other, whilst as a whole it has been the lifeless and immovable mass which foreign politicians were always willing that it should be. To say that these aims have succeeded is to say that the true objects for which federations exist have not been attained, or rather that they were deliberately thrown away. The absorptions, which have taken place at different periods, of the lesser

¹ The various projects and counter-projects may be read in the Eighth Book of Pertz's Life of Stein.

sovereignties by the larger have done much good ; LECT. I.
but one thing they have not done—they have not
made the political structure of Germany stable and
secure. On the contrary, by uprooting old landmarks
and enlarging everywhere the sphere of political
life, they have sensibly stimulated the growth of
a true national spirit—a spirit quick, as we have
lately seen, to resent any interference from abroad,
yet impatient of all remaining restraints on its free
development at home. It is natural that the sons
of men whose allegiance was due to a Count of Sayn,
an Abbot of Gengenbach, or a municipality like that
of Dortmund or Worms, should desire, now that
those old ties are swept away, to belong to a greater
country than Baden, Darmstadt, or Nassau. To
the fathers of these men the Empire was their
country in a sense in which it never was such to an
Austrian, Prussian, or Bavarian ; and it is certain
that, if these little independent Governments had
not survived so long as they did, the obstacles in
the way of union would now be much greater than
they are. What at the present moment do we see
beyond the Rhine ? We see a great people, divided
by frontiers which have been repeatedly changed,
by differences of temperament and manners marked
enough, yet to my mind no more than provincial,
by many local jealousies and local interests beside
the separate interests of their reigning houses, but
united by blood, language, literature, by unrestrained

LECT. I. intercourse and the habit of migrating freely from one territory to another, by a general resemblance of laws, by educational institutions not merely alike but in great measure common, by a sentiment of kinship stronger perhaps than animates any other race, by those historical associations to which they chiefly look back with pride. Such a people opens itself freely, and with the ardour at least of a lively imagination, to the influence of that passion for national greatness which is now working so energetically in the Old World and in the New, and to those mixed motives of pride and policy which conspire to make nations emulous of power. The real force of these tendencies, as compared with the obstructions which they have to overcome, we shall probably be better able to estimate ten years hence than we are now¹. But that a remarkable change has passed over German feeling and opinion must strike any one who turns from the pages of a writer like Pütter in the last century to writers like Häusser, or even Ranke, in the present; and such changes are instructive to the student of political history.

¹ It need hardly be said, that these words were written with no foreboding at all of what has since happened. A war in earnest between Austria and Prussia—the only event which could precipitate the slowly advancing change—was then, at most, a somewhat remote probability. That it has been suddenly realized, and the German Confederation cut asunder by the sword, is due to an unexpected occasion and the personal character of a single man.

LECTURE II.

SYSTEMS OF POLICY.

THE word 'System,' in the language of politicians, Lect. II.
sometimes stands for a system of States, and ^{What a}
sometimes for a system of policy. ^{'system' is.}

In the first case it signifies a group of States having relations more or less permanent with one another. Thus the North of Europe was said before the time of Richelieu, and less positively afterwards, to form one 'system,' and the central, western, and southern States to constitute another system. So, again, all the European Powers are often spoken of as composing one great system.

In the second case it means either any course of policy whatever—any tolerably uniform mode of acting in political affairs—or such a course of policy as involves combinations, more or less permanent, with foreign Powers. A statesman who habitually avoids engaging his country in foreign alliances has a consistent principle of action, but not a 'system' in this latter sense of the word. His principle is to

LECT. II. have no system. It is in this acceptation that the word is commonly used by older publicists; and I shall use it so, for the sake of clearness, in this Lecture.

To give an account of the systems which have been adopted by various Powers at various times, and to discuss fully the reasons for and against systems in general, would require a treatise, and such a treatise would not be worth writing. But I propose to make a few remarks on these points; because, without some clear notions about them, we are apt to be misled by the study of political history, and to overlook the chasm which lies between the politics of a past age and those of the present.

Views current among political writers of the Eighteenth Century.

Let us place ourselves at the point of view common to political writers of the last century.

Nations, they said, are governed partly by their own interests, partly by the private interests, the prejudices and passions, of those who have the chief hand in managing their affairs. Influences of the latter class are too shifting and capricious to generalise about; address, penetration, knowledge of the world, may enable a minister to deal with them successfully, but they escape the grasp of general rules. Not so the public interests of nations. These are ascertainable by means of information open to all the world; they have somewhat of uniformity and permanence; they form therefore the constant, as

personal agencies are the variable, element in politics, LECT. II. and supply a basis for calculation, a solid groundwork, on which plans may be laid and combinations built. Guided by them, every considerable State naturally gravitates towards one combination or another, and the bias thus impressed upon it may be called its natural policy.

Ostensibly at least, the main purpose contemplated by a 'system' is mutual defence. Commercial interests may help to cement the union, but security is the paramount object, for security is at once more important than wealth, and more dependent on political combinations. Offensive alliances are of necessity shortlived. Formed to achieve a particular object, an offensive alliance dissolves when that object is either attained or abandoned. But a character of permanence belongs, or should belong, to a 'system.' All the most famous systems, therefore, have been constructed avowedly to maintain the state of possession existing at the time.

With this end in view, it was the system-framer's first business to satisfy himself as to the quarters How a system should be framed. from which he had reason to apprehend danger or expect support; his next, to establish such connections as would secure him the support and fortify him against the danger. With the map of Europe spread before him, he worked, for the most part, by rough and simple rules. Simplest of all was the old Venetian maxim—'Stand well with your neigh-

LECT. II. bour, but better with your neighbour's neighbour.' 'Des Etats voisins,' writes Mably, 'sont naturellement ennemis les uns des autres'.¹ 'Nations which border on each other never can agree,' said Sir Philip Francis in the House of Commons in 1787, arguing against Pitt's Commercial Treaty with France, 'for this single reason, that they are neighbours. All history and experience assure us of the fact'.² 'We have been brought to acknowledge,' declares a living

¹ *Principes des Négociations. Œuvres de l'Abbé de Mably*, v. 93.

² Stanhope's *Life of Pitt*, i. 324. Fox adopted the same argument. 'The right honourable gentleman [Mr. Pitt] had used arguments not less extraordinary in favour of establishing peace between this country and France. He had asked, in his zeal and sanguinary [sanguine?] wishes for the event, were not the two countries nearly situated, were they not nearly connected in their mutual intercourse, were they not pursuing the same means of increasing their prosperity, and was not this the only means of uniting a people in the bonds of peace, amity, and prosperity? Such arguments might be used with regard to Spain and Portugal. . . . And yet the answer which would naturally be given to Portugal, as well as to Great Britain, was that vicinity of situation, instead of being the means to connect, was what should excite our fear and jealousy.' (Speech of Mr. Fox against the Treaty of Commerce with France, *Fox's Speeches*, iii. 282.) Pitt answered simply that a Treaty of Commerce would not make France either more powerful or more hostile to England than she was; on the contrary, by promoting intercourse between the two nations, it might possibly tend to make them better friends.

There is an echo of the same sentiment in the *Livre Jaune* of 1864. 'Nous sommes trop les amis de la Porte,' writes M. Drouyn de l'Huys, 'pour vouloir devenir ses voisins.' The circumstances, however, of the Turkish Empire afford, no doubt, special reasons why those who would be its friends should not wish to be its neighbours.

writer, himself a diplomatist by profession, ‘that no LECT. II.
State has or can have in its foreign relations other maxims than these—Whoever, by superior strength and by geographical position, has power to do us harm, is our natural enemy; whoever has not that power, but is by his strength or his position enabled to hurt our enemy, is our natural friend¹.’ It would be easy to multiply quotations in a similar strain. In cautious hands the principle perished under a mass of qualifications and exceptions; uncompromisingly applied, it yielded great apparent results—results repulsive indeed to humanity, but attractive, just because they were so sweeping, to the theorist.

That France was the natural and irreconcilable Examples.
enemy of this country, was a proposition against which Pitt could protest as ‘weak and childish, monstrous and impossible²’; but there were few who agreed with him. ‘I say again,’ insisted his great rival, ‘that France is the natural foe to Great Britain:’ and to Lord Malmesbury, the ablest diplomatist of his day, this eternal and unalterable hostility was a ‘truth,’ which eighteen years of personal experience had forced him to acknowledge³. The history of the two nations was deemed to establish it beyond the possibility of cavil. Gentz, writing between sixty and seventy years ago, observes

¹ De Gardien, *Histoire Générale des Traités de Paix*, Introd. p. v.

² Stanhope's *Life of Pitt*, i. 323.

³ *Diaries and Correspondence of the Earl of Malmesbury*, ii. 259.

LECT. II. that all the wars in which England had been engaged had for a century been either exclusively with France or occasioned by events in which France was principally concerned; France was always the object, and the only object, she had in view in all her alliances, her subsidies, her efforts by land and sea; and he pronounces that France is the only Power with which at any time, or under any conceivable circumstances, it can be useful to England to be at war¹. France being the natural enemy of England, England was the natural enemy of France: Austria was therefore England's natural and perpetual ally, for the simple reason that Austria was the Power most formidable to France². Friendship with Austria, however, was hardly compatible with friendship with Prussia, since it never could subsist between those two Powers. 'The antipathy between them,' observed a distinguished publicist, who afterwards passed from the service of one to that of the other, 'is not founded on a blind sentiment of aversion,

¹ Gentz, *On the State of Europe before and after the French Revolution*, p. 155.

² 'My own manner of thinking,' wrote Lord Malmesbury, 'with respect to Austria and Prussia remains, and probably ever will remain, unshaken: the first ought to be the perpetual, as it is the natural, ally of England; the second can, I apprehend, be but at best an occasional one . . . Could any doubt be entertained upon this situation, let any one ask his own judgment which of those Powers can ever prove most formidable to France, and the doubt will instantly be removed.' (*Diaries*, &c. ii. 211.)

jealousy, or mistrust; it is not merely the effect of long habit, or the bitter remembrance of mutual injuries. It is connected with more deep and essential causes. It has hitherto been a fundamental principle of European politics, and under certain limitations must always continue so.' That a 'systematic enmity' should subsist between them was 'in unison with the principles of legitimate politics:' as for an alliance, it was unnatural, and, except at some extraordinary crisis, impracticable. An extraordinary crisis had in 1801, when Gentz wrote, united Austria with both Prussia and Russia, but such a union would not, he believed, recur for many centuries, and it could never last; its permanence would be 'in contradiction to the nature of things, and to the necessary order of political relations.' Prussia was a natural enemy to Hanover, and to all her smaller neighbours, for by a geographical necessity Prussia was an aggressive Power. Progressive aggrandisement had become her constant policy, as the only means of maintaining her influence, and as a rule of self-preservation¹. Sweden was the natural enemy of Denmark, and Denmark was therefore the humble adherent of that giant Empire which had torn from Sweden vast tracts of wilderness, and threatened to devour her altogether. The relations between the Swedish monarchy on the north-west frontier of

¹ For the substance of the foregoing sentences, see Gentz, *State of Europe*, pp. 130, 149, 241.

Lect. II. Russia, and Turkey on her southern frontier, presented a perfect example of a natural alliance; both had reason to be afraid of the same Power, whilst neither of them could be afraid of the other. A like observation applied to the Porte and France, for the straggling possessions of the House of Austria brought her into contact with the former in Hungary, and with the latter in the Low Countries and on the Rhine¹. To all the maritime and colonial Powers Great Britain was a natural foe, for she was stronger at sea than all of them, and their marine, their trade and outlying possessions, held out a perpetual temptation to her cupidity and lust of dominion. Where then was Holland to find a friend—at sea a prey to England, whilst France never ceased to cast a longing eye on the little delta of sand, covered with green meadows and populous towns, which was all that the Republic owned on the continent of Europe? During the eighteenth century she was in fact French and English by turns, as the French or English party gained ascendancy in her councils; and the contemptuous words of a secret agent of the government of Louis the Fifteenth, ‘Elle a peur de tout, se plaint de tout, souffre tout, et se garantit de rien²,’ really described with little exaggeration the

¹ Mably, v. 94.

² Favart, in Ségur, *Politique de tous les Cabinets de l'Europe*, p. 291.

situation of a country which a few generations back LECT. II.
 had been courted on all sides, and regarded as the chief
 centre of the political activity of Europe. We may
 understand how, among these struggles and these
 fears, the spirit of independence had become enfeebled,
 when the great province of Zealand seriously con-
 ceived the design of divorcing itself from the rest
 of the commonwealth and soliciting the protection
 of the British Crown, and communicated this strange
 project to a British envoy¹. Far different was the
 case of another small State, likewise placed between
 two great Powers, the Duchy of Savoy. It was the
 interest of France that the upper valley of the Po,
 and the roads which thread the huge fastnesses of
 the Graian and Cottian Alps, should not become
 Austrian, and the interest of Austria that they
 should not become French ; and a long line of sa-
 gacious and ambitious princes turned this rivalry to
 their own account, leagued themselves with each by
 turns, broke without scruple every engagement which
 it had ceased to be their interest to keep, profited
 by every war in which they were involved, and
 rode on the crest of every wave that threatened
 to overwhelm them. The command of that valley
 and of the whole plain of Turin are now in the hands
 of France, and the Duchy of Savoy has disappeared
 from the map for ever ; but the Dukes of Savoy

¹ Lord Malmesbury. *Diaries*, &c. ii. 197.

Lect. II. are Kings of Italy, and sit as equals among the great Sovereigns of Europe¹.

Tendency
of 'sys-
tems' to
become
aggressive.

I have said that so far as a 'system' had an avowed object, that object was commonly self-defence. But it is obvious that, when the value of your ally consists in his ability to hurt your enemy, the alliance is not a mere defensive weapon; it is not a shield, but a sword, which may be used to parry, but may also be used to strike. It is formidable, and it challenges those against whom it is aimed to make themselves formidable in the same way. Thus, in Lord Auckland's Correspondence, we find Lord Carmarthen instructing Mr. Eden to represent to M. de Montmorin that the influence of France in Holland could only be useful to her as a means of annoying Great Britain, and M. de Montmorin, less roughly but with as much reason, retorting the charge upon Great Britain herself². In fact, where defence has been the first, it soon ceases to be the chief aim; connections which may have been formed originally for that object are maintained, strengthened, and extended for the sake of influence; from scheming with a view to security there is an easy and almost inevitable transition to scheming with a view to power.

Current
rules of
policy.

To form the closest union with his country's natural allies was the first and most imperative duty

¹ See Note A, *infra*, p. 107.

² *Journals and Correspondence of Lord Auckland*, i. 298.

of a statesman. Old allies, like old friends, are better than new ; co-operation becomes easier and surer, and petty differences vanish, under the force of association and habit. Care should be taken nevertheless not to make even your natural ally so secure that he can do without you, for his attachment will diminish with his necessities, and as his strength increases his affection will cool. Beware also of mistaking one whom your enemy can hurt for one who can hurt your enemy ; and never, in your transactions with your ally, overlook the point at which your interest in the co-operation stops. Never attempt to form permanent connections, except with natural allies : never forget that all efforts must be vain to establish a lasting friendship with a natural enemy. Against the natural allies of your natural enemy be always on your guard, and oppose everything that might make them stronger than they are. But it is a general, perhaps a universal, rule, that no Power should cherish an enmity towards a State weaker than itself ; for every State incapable of being your rival may in some contingency be of service to you. With such Powers multiply alliances as much as possible, but never trust in them, since it is the natural policy of States of the second order to sell their friendship as often, and as dear, as they can. A hundred such alliances will be useless, but you may find profit in the hundred-and-first. Finally, let every Power of the first rank follow the advice of Richelieu,

LECT. II. and negotiate everywhere—negotiate day and night.

By some this precept was carried further. Mix, they said, in every quarrel that arises among your neighbours; a stander-by runs the risk of becoming the conqueror's prey. Let the combatants, rejoined others, exhaust their strength, whilst you reserve your own; you will then be more than a match for them both ¹.

¹ 'Les Etats reçoivent tant d'Avantage des Négociations continuelles, lorsqu'elles sont conduites avec prudence, qu'il n'est pas possible de le croire, si on ne le sçait par Expérience. J'avoue que je n'ai connu cette Vérité que cinq ou six ans après que j'ai été employé dans le maniement des affaires; mais j'en ai maintenant tant de certitude que j'ose dire hardiment, que négocier sans cesse, ouvertement ou secrettement, en tous Lieux, encore même qu'en ne reçoive pas un Fruit présent et que celui qu'on en peut attendre à l'avenir ne soit pas apparent, est chose tout à fait nécessaire pour le bien des Etats. Je puis dire avec vérité avoir vû de mon temps changer tout à fait le face des affaires de la France et de la Chrétienté, pour avoir, sous l'Autorité du Roi, fait pratiquer ce principe, jusqu'alors absolument négligé en ce Royaume.' (*Testament Politique du Cardinal de Richelieu*, ch. vi.)

Compare with this Bolingbroke's strictures on the 'rage for negotiating,' in his Eighth Letter on the Study of History. 'Your good sense, my Lord, your virtue, and your love of your country, will always determine you to oppose such vile schemes, and to contribute your utmost towards the cure of both these kinds of rage; the rage of warring, without any proportionable interest of our own, for the ambition of others, and the rage of negotiating, on every occasion, at any rate, without a sufficient call to it, and without any part of that deciding influence which we ought to have. Our nation inhabits an island, and is one of the principal nations of Europe; but, to maintain this rank, we must take the advantages of this situation, which have been neglected by us for almost half a century; we must always remember that we are not part of the continent, but we must never forget that we are neighbours to it.'

Such are the golden lessons of the masters of the art and professors of the science of politics; and they have largely influenced the conduct of nations. Maxims which have been in vogue during long periods of time among acute and experienced men contain, we may safely conclude (as these certainly do), no small share of truth. But that they are right on the whole would not be a safe conclusion. Mistakes, which all the world now knows to be mistakes, have again and again been cherished by men of acknowledged acuteness and experience from one generation to another.

Lect. II.

The policy of natural and perpetual alliances is in our own day practically obsolete. And why is it obsolete? For two reasons, chiefly: because the dangers which threaten the tranquillity of Europe are not the same as formerly; and because statesmen know that they cannot reckon on any combination which is not cemented by a forcible motive and a present definite object.

Systems
obsolete,
is and why.

I. When this policy reigned, aggrandisement was, or was assumed to be, the constant aim of every Power of the first order—I do not stop to repeat the loose and not always uniform definition by which publicists interpret this phrase—as security was the chief, though not the sole, object of their smaller neighbours. And the shortest way to aggrandisement was successful war. Assuming

Territorial
aggrandise-
ment less
coveted.

LECT. II. that nations were governed, as in fact they commonly are, by their real or imagined interests, it was thus a perfectly just supposition that Europe was always, as more than one of these writers expresses it, in a state of war, either overt or latent; and that every great Power would attack, whenever it had a fair chance of success, any other Power from whom it had anything to gain.

We have but to carry back our minds to the wars of the sixteenth, seventeenth, and eighteenth centuries, and the views and habits of thought formerly current not only among princes and statesmen, but in all classes of people and all countries, in order to feel that these assumptions were once true in a degree and a sense in which they would not be true now. What contrast can be more striking than between the pacific decorous diplomacy of our own times—busier perhaps and more nervous than need be, but harmlessly nervous for the most part and innocently busy—and the restless rapacious activity with which ambitious projects were formed and cast aside, aggressive leagues, which rather deserved the name of conspiracies, made and abandoned, and webs of intrigue spun, broken, and spun again, in the age of Ferdinand of Arragon and Louis the Twelfth, of Julius the Second and Wolsey. When the growth of regular armies, settled revenues, centralised Governments, had reached the stage at which a foreign policy (in the sense which we now

attach to that phrase) became possible, the first LECT. II.
thought of princes and their councillors was to employ those armies, those revenues, and the leverage which that centralisation, loose and imperfect as it still was, placed in their hands, in foreign conquest. The long struggle between the House of Austria and the Kings of France, which closed with the Peace of Westphalia, and that of France against the allied Powers, which ended at the Peace of Utrecht, sprang from, and were sustained by, this vulgar ambition, whilst they served ultimately to build up that general system of mutual jealousy and precaution which has gone by the name of the 'Balance of Power;' and between 1713 and the wars of the French Revolution the whole interval was an armed truce, fortified by all kinds of alliances and counter-alliances, yet broken whenever a promising opportunity seemed to present itself for winning a province or crippling a rival. The successive schemes of partition which, after Italy had been finally parcelled out at Aix-la-Chapelle in 1748, floated before the minds of the chief Continental Powers—schemes for partitioning the Austrian hereditary States, partitioning Prussia, partitioning Bavaria, partitioning Poland, partitioning European Turkey—though they mostly proved abortive, mark the temper of the times. It is certain that the temptations which were so powerful then, have not wholly ceased to be temptations now; but it is at least as certain

Lect. II. that foreign conquest is not now thought so profitable a thing, or so well worth fighting for, as it then was—that the whole cast of men's ideas on this point has undergone a sensible change—and that, whilst new sources of discord have been opened, unknown and unthought of till the close of the last century, the old ones do not flow so freely as before. Is there a square yard of soil on the whole surface of the globe that any sensible Englishman wishes to see annexed to the British Empire? I will not say that there is not, but I do not know of one. So much as this cannot indeed be said of Russia, of Prussia, of France. Over Russia the distant Mediterranean and the ancient capital of Eastern Christendom continue to exert a steady attraction, which she may resist but cannot entirely subdue. Prussia, stronger and more compact than in Aranda's time, is still too like what she then was for the repose of her less powerful neighbours¹. France has her traditional objects of desire, and we cannot forget that she acquired but yesterday as much as she had gained during the eighty years which elapsed between the Peace of Utrecht and the Revolution. Yet it is but just to her to add that for half a century, under many different Governments, she has neither resumed, nor attempted to resume, the part of an aggressive Power. In a word, the inducements to

¹ Note A, *infra*, p. 107. This Lecture was delivered in 1865.

form standing leagues for purposes of either aggression LECT. II. or defence are not, nor are they likely to be, what they have been, though they may possibly revive with unexpected vigour from time to time.

2. Be these inducements however what they may, we now know that there is nothing in which statesmen have oftener deceived themselves than in the importance they attached to alliances and the calculations they constructed on what they deemed to be the obvious interests of nations. Modern political history is far from exhibiting that uniform course, that regular play of adverse interests, those distinct groups steadily opposed to one another, which would have corresponded with the assumptions of the system-framer. Take the eighteenth century, eminently an age of 'systems.' What a shifting, what a perplexing, scene it presents to the historian! During the twenty years which immediately followed the Peace of Utrecht, France and England, which had been at war, with short intermissions, since the accession of William the Third, are found closely united in defence of the provisions of that settlement. The Emperor accedes to the Quadruple Alliance in 1719; then withdraws from it in 1725 to form a hostile camp with Spain. Spain, at first the deadly enemy of Austria, soon courts her alliance, coalesces with her at Vienna in 1725, deserts her at Seville in 1729. Prussia in 1725 joins France and England, but goes over in 1727 to Spain and Austria. The

Permanent
alliances
proved to
be insecure.

LECT. II. league and counter-league of Vienna and Hanover array one half of Europe against the other half, but crumble to pieces before a blow is struck. The Polish Crown falls vacant in 1733, and the competition for this piece of patronage arms Austria, Russia, and Prussia against France and Spain, henceforth the satellite of France. Scarcely has this dispute been composed in 1738 by the Second Treaty of Vienna, when the death of the Emperor Charles the Sixth leaves his dominions a prey to a crowd of greedy claimants; and France, unable to resist the temptation, conspires (Spain following at her heels) with Prussia and Bavaria in the work of plunder. Once more England is the ally of Austria, and the enemy of France. The Seven Years' War brings a fresh exchange of parts. France has become the assailant of Prussia and the fast friend of Austria. Great Britain, estranged from Austria, makes common cause with Prussia.

Causes
which have
made the
policy of
nations un-
certain.

We need not go further, nor is it worth while to unravel the various threads of this tangled skein: it is enough to glance at a few of the causes which have made the policy of nations so changeable and seemingly so capricious. The force of purely personal influences we have noticed already, without attempting to estimate it. The policy of the eighteenth century was pre-eminently a policy of 'Courts,' and of dynastic interests. The desire of a clever ambitious woman to procure princely estab-

lishments for her sons—the anxiety of an old man LECT. II.
 to secure an imperial inheritance for his daughter—
 the wish of a great king, who had married below
 his rank, to get a throne for his father-in-law—
 resentment at a petty affront—gratification at a
 trifling civility,—motives such as these actually ruled
 the policy of Spain, Austria, and France, during long
 and critical periods. A daring genius, again, will
 disconcert and trample under foot—sheer imbecillity
 will baffle and disappoint—calculations framed on
 common experience by common men. ‘*La faiblesse*
*trompe tous les calculs de la politique*¹.’ But further,
 national interests are by no means so simple and
 enduring, so plain and easy to apprehend and
 pursue, as it was formerly the fashion to assume.
 There are cross interests, competing interests, occa-
 sional and ephemeral interests—there are apparent
 interests which are not really such, but are purely
 speculative and imaginary. Even if we could be
 sure we knew the true interests of a particular State,
 we can by no means be sure that it will act on them.
 In different lights, to different eyes, they put on
 different colours: men of one country do not readily
 place themselves at the point of view natural to
 those of another; an Englishman has a real difficulty
 in estimating, and even in understanding, the force
 of the ideas and impulses which are powerful in

¹ *Politique de tous les Cabinets de l'Europe*, p. 253. (Ségur's Note.)

LECT. II. France, and Frenchmen often honestly attribute to us motives which we as honestly disclaim. We see this, not only in histories and in state-papers composed for the public eye, but in private letters, in secret instructions, in memoranda never intended to see the light¹. Finally, as the points of contact among different communities multiply, their interests become more chequered; and every change in their relative importance disturbs, in its degree, old calculations, and calls for new ones.

¹ I will give an example of what I mean. Hume, in common with other Englishmen of his day, believed that France was aiming at universal dominion. 'For above a century,' he wrote in 1742, 'Europe has remained on the defensive against the greatest force that ever perhaps was formed by the civil or political combination of mankind.' (Essay VII.) There was hope however, he thought, that, by the help of unforeseen turns of fortune, the danger might be averted if the resistance were continued for some time longer. Turn to Flassan (vi. 15), and read the Memorandum composed a few years later for Louis the Fifteenth by his then Minister of Foreign Affairs, M. de St. Contest. It starts with the assumption that *England* had acquired the principal influence in Europe, and discusses the question whether her power could not be reduced by the formation of a 'system,' and by turning against her that principle of combination which, 'by the chimerical charge of aspiring to universal empire,' she had successfully employed against France. Insincerities, especially such as have become traditional, penetrate, no doubt, into confidential memoranda and even into men's habits of thinking on political affairs; but Englishmen are not good judges of the political sincerity of Frenchmen, nor Frenchmen of ours, and the question is not whether an opinion is just, nor even whether it is untainted by self-deceit, but whether it is acted on as true.

Was it for the true interest of France to discard, LECT. II. as she did in 1756, the Prussian alliance for the Austrian? Each policy had its partisans, the secret diplomatic agents of the French Court pleading and intriguing long and perseveringly, abroad and at home, against the course pursued by its public ministers. Was Fox's opinion right—'Alliances with the Northern Powers have been, and ever will be, the system of every enlightened Englishman'¹—or was Lord Malmesbury justified in his preference of Austria? In the first Partition of Poland Lord Suffolk saw only a 'curious transaction;' and the French Government of the day remained a passive spectator of that event, which indeed many sagacious men deemed likely to conduce to the repose of Europe. Was the indifference of Aiguillon on that occasion a betrayal of the true interests of France, and ought Suffolk to have foreseen that the repose of Europe would be troubled a hundred years later by the throes of a restless national life which oppression has been unable to destroy? The old policy of Russia was based on friendship with England, with whom she had no occasions of dispute and a profitable trade. Now she stretches from sea to sea, covets the empire of the Baltic, threatens Constan-

¹ 'You will readily believe me that my system of foreign politics was too deeply rooted to make it likely that I should have changed it. Alliances, &c.' (Mr. Fox to Sir J. Harris, *Diaries, &c. of Lord Malmesbury*, ii. 40. See also ii. 51.)

LECT. II. tinople and the Levant; and these new interests, this vastly extended dominion, had, in the judgment of the first Napoleon, made her, before his time, the natural ally of France. What are likely to be the future relations of those two Powers? How just and convincing seemed the reasonings by which Metternich advocated in 1814 his project of a German Confederation¹! Should he have anticipated the events which made him in later life confess that the Confederation, for the purposes contemplated by him, was a failure? What indeed can be a keener satire on the art of politics than the chimeras nourished to the very last by that shrewd, cool, subtle brain, which always refused to take into account something destined to prove fatal to his plans? The union, in 1815, of the Dutch and Austrian Netherlands was expected to do the work of the old Barrier Treaties in a more effectual way: it fell to pieces, and left two little kingdoms, of which French politicians foretold (was the prediction right?) that one or other must always be virtually dependent on France. Which, on the whole, or at any given time, ought to be the strongest of the multiplied fears and anxieties that determine—if anything can be said to determine her wavering course at all—the foreign policy of

¹ These reasons are well stated in Hardenberg's despatch of Oct. 12th, 1813. *Letters and Despatches of Lord Castlereagh, Third Series*, i. 60.

Austria? It has been the traditional policy of France to divide Germany and to divide Italy, to balance Prussia against Austria and keep the Italian States in a condition of weakness and dependence: a brilliant orator of the old school has lately raised a warning voice against the abandonment of one half at least of that policy by one of the ablest sovereigns who ever sat on the French throne¹. Which is the wiser of the two? France herself has always oscillated between two policies—a policy of acquisition and a policy of peace. There have never been wanting prudent and moderate men ready to say with Ségur, ‘Le véritable intérêt de la France est de se servir de son influence et de sa force pour que chacun garde ce qu’il a et reste comme il est’²—and the classes among whom these views prevail exert at present a sensible influence on the Government. But there is also, diffused through the whole people, the old restless ambition of being first in Europe; there is a powerful mass of opinion which is purely military; there are the recollections of the earlier Empire: and these things have made, and continue to make, it a matter of almost incessant speculation whether the controlling or the disturbing forces will get the upper hand.

¹ Speech of M. Thiers in the French Chamber, April 15th, 1865.

² *Politique de tous les Cabinets de l'Europe*, p. 142. (Ségur's note.)

Lect. II. It would be absurd to insist that sagacity is always at fault in such matters, and that calculations about them are mere guess-work. But it is reasonable to say that sagacity has deceived itself too often, and that the materials for calculation are too vague and thin, to warrant us in building much on them. The older writers admitted the uncertainty of politics ; but, having made the admission, they went on to scheme and theorise with as much confidence as if the uncertainty had been removed. That men should refrain from looking forward as far as they can, is not to be expected or desired. But a statesman's business is really of a humbler sort than some suppose, more concerned with daily expedients, less with far-extending plans ; and in practice, I conceive, he is seldom called on to take any important step without a footing narrower, perhaps, but firmer than these speculations yield. How thick a cloud rests on the path along which Providence leads the march of nations, none know so well as those who have spent their lives in trying to pierce that obscure future which constantly recedes before them.

The real
guarantee
for co-
operation is
a common
interest.

3. More direct and trenchant objections are not wanting. Writers on politics have often observed that every solid alliance must rest on a community of interest, and that in proportion to the strength of the common interest is the strength of the alliance. Why then, it may be asked, should not the attracting and cementing force be left to work its natural

effect, where it exists and so long as it exists, Lect. II. without help from diplomacy? Just so much, and just so long, as it is advantageous to two nations to act together, they will act together: their paths will diverge as soon as their interests separate. To erect on this basis what is called a 'system' is, it may be urged, useless at best: the superstructure can add nothing to the strength of the foundation.

History is full of broken guarantees and alliances and of disputes about the *casus fœderis*, which have not arisen from bad faith, nor from the common uncertainties of language, but are peculiar to this class of compacts, and against which no precision of phrase can ever completely guard. Multiply engagements as you will; clinch them as firmly as you may; but never count on them to make a nation draw sword in a quarrel it deems unjust, and for objects in which it is to have no share. The successive coalitions against the first Napoleon showed how hard a task it is to induce several Powers to act steadily together even in presence of a general, instant, formidable danger. There subsists at this moment¹ between Austria and Prussia a somewhat indefinite connection, based principally on the vague uneasiness which France inspires in both of them. So long as this motive, coupled with the sense of a common nationality, is stronger than the jarring

¹ May, 1865.

Lect. II. interests that incessantly counterwork it, so long and no longer the two Courts will act together. Prussia will fight for Austria whenever she is quite satisfied that to fight for Austria will promote her own safety or advantage. But what is the connection itself worth as a security? Nothing.

France
and her
alliances.

From the time of Richelieu to that of the Revolution, no Power was so attentive to the formation and maintenance of alliances as France. With a territory the most compact for its size, and a geographical position by far the most commanding, in Europe—with a people distinguished by strong military instincts, singular cleverness, the most vivacious energy, the most inflammable vanity—and with a hereditary object of ambition, the extension of their frontier to the Rhine, the sovereigns of France had temptations to seek and means to acquire influence, such as none of their neighbours could share. During the latter part of the eighteenth century, when she had ceased to aim at territorial aggrandisement, her political system spread over every part of the Continent. The Family Compact fastened Spain to her chariot wheels, as well as the Spanish Bourbons who reigned in Parma and Naples. The Pope and the King of Sardinia were in her interests. Ancient ties, often renewed, bound to her Genoa and Venice, the Porte, the Swiss Cantons, and Sweden. Since 1756 she had been allied with Austria; and this connection, though shaken, was not destroyed

by the disputes about the Bavarian Succession and the opening of the Scheldt. Over Prussia she exerted a strong and pretty constant attraction; and for generations she had been the powerful friend of most of the lesser German princes. She was patroness of the dominant party in the Dutch United Provinces. After 1778, she had the gratitude and the close alliance of the United States. Such was the imposing train of clients and supporters that surrounded the French monarchy during the early years of the reign of Louis the Sixteenth, and dazzled the minds of statesmen like Fox¹ by a show of irresistible power. Yet it was in 1787, four years after she had reaped the fruits of the American war by the Peace of Versailles, that she suffered that bloodless defeat in Holland, which French writers have always regarded as among the most humiliating passages of her history. 'She will not fight,' said a keen-sighted and audacious English diplomatist—'she has neither army, revenue, nor ministry'—'I am certain that, if we begin to roar, she will shrink before us²;' and by the sheer force

LECT. II.

¹ See *Fox's Speeches*, iii. 252 (Speech on the Address). He argued that, although the French army had been reduced below those of Russia, Austria, and Prussia, her alliances and her 'influence' made her far more powerful than she had been under Louis the Fourteenth, and that 'this great superiority would in all probability be considerably heightened very shortly.' This was in 1787.

² *Diaries, &c. of Lord Malmesbury*, ii. 299, 305.

Lect. II. of his own convictions he drove Mr. Pitt's Government to throw down the gauntlet in support of the Stadtholder's power, which the Republicans, backed by France, had nearly succeeded in destroying. She did shrink, and her influence, in the language of the politicians of the day, fell at once before that of England, though the substantial strength of the two countries remained just the same as before.

The French monarchy was struggling in 1787 with those embarrassments from which it never extricated itself till it was struck down by the Revolution. But the whole history of France tends, I think, to show that her great intrinsic force has in reality derived little support from her numerous foreign connections, and that the 'systems' which, from Richelieu downwards, have succeeded one another in the Department of Foreign Affairs, have served more for show than for use.

It has been a moot point with French politicians whether she ever drew any advantage from her alliance with Sweden. The better opinion probably is, that it was of no real service to her at all ; whilst that Sweden herself suffered from it there is no doubt. Of the connection with the Porte, formed originally by Francis the First on the basis of a common hostility against Austria, the chief effect in later times has been to involve his successors in differences with Russia, from whom they had themselves nothing to fear. The Family Compact, though

more formidable in appearance than in reality, was LECT. II. undoubtedly of some use to France, by largely reinforcing her maritime strength in the war of 1778 ; and it was not till Spain in her turn asked the help of her ally in a quarrel of her own — the dispute with Great Britain in 1790 about the ships seized at Nootka Sound—that the French Government had to choose between repaying its obligations and facing (as it preferred to do) the discredit of a refusal. The motive of the Austrian alliance was sound ; for, by relieving France from any fear of attack on the part of her old but no longer formidable foe, it should have left her free to throw her whole force into a struggle with her actual rival, England. But its practical effect was the reverse of this. It was the Austrian alliance that, in the Seven Years' War, engaged her in strife with Prussia, while England was conquering her colonies and destroying her marine. She steered clear of that rock in the War of American Independence. But how ? By refusing to support the claims of her ally on the Bavarian Succession. ' Vous nous abandonnez,' said Kaunitz to Breteuil, ' dans une occasion bien intéressante. Le temps en amenera, peut-être, où ce souvenir nous sera sensible ¹.'

The situation of England at the close of the American War was in striking contrast with that of her

Com-
parative
isolation
of Great
Britain.

¹ Flassan, *Hist. de la Diplomatie Française*, vii. 222.

Lect. II. great rival. During long periods she had stood wholly aloof from the affairs of the Continent ; and her relations with foreign Powers had rarely been of an intimate or permanent character. She had had a chain of alliances with Portugal, and an intermittent friendship of some duration with Denmark ; she had been by turns the enemy and the ally of both Austria and Prussia ; and, without gaining the former, she had managed to excite bitter and implacable resentment in the heart of Frederic the Second. She had a customer, but not an ally, in Russia. It was perfectly natural that to English statesmen of that day the formation of an antagonist system should have seemed, as it did, an object of the first importance. Chatham, who in 1756 had talked of conquering America in Germany, had, on returning to office ten years later, vainly endeavoured to conclude defensive alliances with the Courts of Vienna, Berlin, Petersburg, Copenhagen, and Stockholm. ‘ Chi sta bene non se muove,’ said Frederic to Sir A. Mitchell ; and the Minister’s ready answer, ‘ Chi sta solo non sta bene,’ had only the barren success of a repartee¹. ‘ In the article of a Continental alliance as a balance to the House of Bourbon consists,’ wrote Fox in 1783, ‘ the whole of my foreign policy² ;’ and in his letters, and in those of Lord Suffolk and Lord Stormont, the

¹ Lord Stanhope’s *History of England*, v. 250.

² Fox to the Duke of Manchester, Sept. 12, 1783. Lord Russell’s *Memoirs and Correspondence of C. J. Fox*, ii. 157.

writers harp continually on the same string. Whether LEOT. II. court should be paid to Prussia or to Austria was the only question. In fact both were solicited in vain. Frederic remained cold and impracticable to the last, and an English alliance did not enter into the policy of Kaunitz. Lord Malmesbury himself wasted six years in fruitless efforts to gain the Empress Catherine the Second—the purpose for which he had been despatched to St. Petersburg; and, when afterwards sent to combat French influence in Holland, his cry was still the same. ‘The Republic comes round the moment a system is formed¹.’ Accident at last achieved his object. An affront offered to the wife of the Stadtholder, a Prussian princess, provoked Frederic William the Second to interfere; and the personal influence which Lord Malmesbury’s singular address had gained over the mind of the Prussian sovereign, a man very unlike his predecessor, induced him to sign the Triple Alliance of 1788. The conclusion of this Treaty was Lord Malmesbury’s masterpiece, and raised his reputation to the highest point. Here was the system so long desired, and for a few years it encouraged the Court of London to intervene more freely in Continental affairs and use a higher tone². But how long did it last? It lasted

¹ *Diaries, &c. of Lord Malmesbury*, ii. 240.

² The formation of a counter-combination, a Quadruple Alliance between Russia, Austria, France, and Spain, was only prevented, according to Ségur’s Memoirs, by the weakness of France.

Lect. II. till the first strain was put upon it by the earliest reverses sustained in the war of the Revolution. Then it snapped, and its author had himself the task of struggling to persuade Prussia to fulfil the engagements she had contracted, and the mortification of struggling in vain.

Evils attendant on the policy of permanent alliances.

On the whole, standing alliances have generally, I conceive, been unprofitable. But it is further to be remarked that the policy which sought them, even when not barren of advantage, had positively mischievous tendencies. It has, in fact, not seldom prolonged connections after they had ceased to be useful, or has turned them to the prosecution of ends which were not useful. More commonly, it has offered an apparent security which was worse than none, has raised expectations destined to be disappointed at the critical moment, and has encouraged nations to embark in enterprises beyond their strength. It has tended to shackle their free agency and impair their self-reliance—to breed gratuitous causes of complaint, vague and ill-defined claims, unnecessary conflicts between the obligations of prudence and those of honour—to hamper the minds and narrow the views of statesmen—to turn politics into a game of speculation—to keep alive worn-out traditions and obsolete principles of action—to perpetuate animosities, and, by forming separate camps, to provoke quarrels—to

beget undue cravings for what is called influence, LECT. II. and a fidgety impatience or a nervous dread of what is called isolation. In some of these respects it had consequences which long survived, and are by no means extinct at the present day.

It is true of course that the foregoing considerations, like all political considerations whatever, may be insisted on too absolutely and pushed too far. Foregoing views, how far they need qualification. No one will dispute that, beside the general interest which all nations commonly have in the maintenance of order and peace, particular nations may have special interests, more or less permanent, and determined more or less by geographical position. We, as an insular and trading people, have a special interest, which France has not to the same extent, in preserving the peace of Europe. France has special interests, which we have not, in keeping Belgium apart from Holland, and sustaining the neutrality, if she cannot have the control, of Switzerland. Austria, Prussia, Russia, have their special interests. No one, again, will dispute that concurrent views of policy, and a prospect of common advantage, may, while they last, produce a close approximation between two or more States, and lead, not without benefit, to that habitual interchange of opinions, that frequent concert, and those mutual concessions in lesser matters, which make up what is called a cordial understanding. Still less of course do I mean to argue against specific engagements made with a view to a

Lect. II. particular object and regulating the manner and proportions in which the contracting parties shall co-operate for the attainment of that object. Treaties of alliance in contemplation of an actual or impending war fall under this head. Such arrangements will always be necessary, and there is but one main rule in framing them—the clearer they are, the better. I say only that the special interests of nations have been often thought to conflict where they only differ—the latent sense of antagonism between France and England, for example, does not spring from a real conflict of interests, but from the fact that for a couple of centuries they have been the two greatest Powers in the world, and from the habit of rivalry which has grown out of that fact; that the ability of a State to exert influence depends on its intrinsic strength, far more than on its foreign connections; that it is seldom or never wise to erect large schemes and permanent combinations on the basis of a supposed community of interest or sentiment; that intimacies between Governments should commonly be restrained within somewhat cautious limits; that a cordial understanding, with its hot and cold fits, its half-confidences, the little heart-burnings and misconstructions to which it is exposed, and the suspicions of undue compliance which it seldom fails to excite¹, needs the greatest circumspection to

¹ A striking picture of these is furnished by M. Guizot's Memoirs.

prevent it from defeating its own object ; lastly, LECT. II. that engagements for joint action are generally vicious which are indefinite in their scope or without limit of time.

Since 1815 we have heard little about defensive ^{Europe} leagues, much about co-operation. 'I had hoped,' ^{since 1815.} wrote Lord Castlereagh from Vienna, at a moment when the excessive demands of Russia and Prussia had driven the three other great Powers to a hurried and shortlived coalition, 'that we had done with systems.' Systems in the old sense have in fact been well-nigh forgotten for fifty years. The general aim has been to secure general concert in all matters of importance ; and the separate groups which have formed themselves have been such as ought to have been impossible according to the old principle of geographical and natural enmities. France has been associated with England—Austria with Prussia and Russia. The plan of general concert, which took its rise at Vienna and owed its first development to the solicitude of Metternich, has sometimes succeeded, and sometimes failed ; of late years its failures have been more conspicuous than its successes : forces too strong to be overcome have fought—and happily, as I believe, will always fight—against any system tending to control artificially the action of those causes by which Europe is gradually transformed, and to stereotype either existing forms of government or

Lect. II. existing territorial arrangements. The particular intimacies which subsist between different Powers are due to agencies on the permanence of which we cannot count, and it is therefore unsafe to lean on them. 'I should be glad,' wrote Canning to Lord Granville in 1824, 'to make a beginning of a close and separate good understanding with France, on which, more than on any other political combination, the permanency of peace depends.' The year before, he had written to Sir Charles Bagot, 'Things are getting back to a wholesome state again. Every nation for itself, and God for us all¹!' It is possible to agree with both sentiments at the same time.

To use the advantages of a situation which makes this country, though a neighbour to the Continent, not a part of it, was in Bolingbroke's opinion the true wisdom of an English statesman. To avoid all foreign alliances whatever was the advice of Washington to his countrymen, seated on a continent of their own and parted, not by a little strait but by three thousand miles of sea, from the traditional friendships and enmities and the restless politics of Europe. They have had no difficulty in adhering to it, nor need we be at any loss to understand the anxiety early shewn by their statesmen lest the nations of the Old World should try to extend their political system to the New.

¹ Stapleton's *Political Life of Canning*, pp. 370, 404.

Let me add, in conclusion, some short remarks on LECT. II.
 two points which are germane to the subject of this Concluding
 Lecture. And, first, on the doctrine or theory of remarks.
 a Balance of Power, and the importance attached
 to it by its friends and foes.

1. The constant use of this phrase in public Treaties The
 and manifestoes has led some writers of eminence to 'Balance
 speak of it as embodying a rule or principle of posi- of Power.'
 tive International Law. This is an inaccuracy, as any
 one may satisfy himself who will try to reduce the
 substance of the phrase to the shape of a legal pro-
 position. At the utmost, it is no more than a practical
 security, of recognized importance, for the observance
 of International Law—which is a very different thing.
 The phrase itself is, according to its best interpreters,
 a short expression of the political maxim that no
 single State ought to be suffered to become strong
 enough to overbear the aggregate strength of the
 rest, or some considerable but undefinable proportion¹
 of their aggregate strength. But since it is im-
 possible to fix with anything like precision the point

¹ Gentz talks sometimes of all, sometimes of 'the majority,'
 or 'several.' The thing really meant is, so many as might probably
 be expected to combine in order to repel an aggression dangerous
 to the whole. He is equally obscure about the means by which
 a preponderance which is becoming excessive is to be restrained.
 'Unlawful' enterprises are to be resisted, of course. But suppose
 the obnoxious State abstains from all violence, and yet grows
 continually stronger. What then? Why then, 'no means which
 political wisdom can devise for the purpose of diminishing its
 power should be neglected or untried.'

II. at which this excessive preponderance is reached, or to make sure how many of the lesser Powers will actually throw their weight into the opposite scale, it has come to mean more than this : every aggrandisement likely to jeopardise the actual state of possession has been treated as a displacement *pro tanto* of the equilibrium ; and the equilibrium itself meant such a distribution of force among the different countries of Europe as offered a security for the existing state of possession. In an age of 'systems,' when every one had his eyes fixed on the movements of his neighbour, and mutual suspicion and jealousy constantly harassed all the Cabinets of Europe, these notions would rapidly acquire consistence and development. Europe was regarded as one great system, kept poised, as it were, by the distribution of force among its members—a system of systems, for it was composed of several clusters, each balanced internally and serving to support the general balance of the whole. Rousseau pronounced the entire machine a self-acting one, which might be safely trusted to take care of itself, and had never been the better for the pains bestowed on it. To protect the balance, however, or to redress it, has been among the nominal objects of almost every political Treaty concluded and Declaration of War issued during the eighteenth century, and indeed during the present ; and there is no doubt that it has sometimes served as the pretext for a quarrel,



BALANCE OF POWER.

and repeatedly made hostilities general which would otherwise have been shut up within a comparatively small area. LECT. II.

The idea of a Balance of Power is said to have been first worked out by the scheming Italian politicians of the Middle Ages ; but something like it has probably existed wherever men felt insecure in the presence of superior strength, and the only feasible substitute for a police lay in voluntary combinations for self-defence. 'Whoever,' says Hume, 'will read Demosthenes' oration for the Megalopolitans may see the utmost refinements on this principle which ever entered the head of a Venetian or English speculatist;' and he quotes a passage from Polybius¹, which expresses the idea itself with sufficient precision. I do not suppose that the instinct of self-preservation which suggested it will ever wear out ; that nations will ever be content, if they can help it, to feel that they exist upon sufferance ; or that statesmen, European or American, will learn to see with indifference conquests and annexations which may affect the interests under their charge. Nor is it possible to frame general rules which shall define beforehand what circumstances will justify anxiety, or to what weapons it may resort when roused in earnest. Yet recent experience seems to shew that time has much allayed that uneasy sensitiveness which trembled at every slight disturbance of sub-

¹ Lib. i. c. 83.

Lect. II. sisting arrangements, took umbrage at every accession of power which might fall to the lot of a neighbour, weighed out in nice scales souls by the thousand and territories by the square mile, and attached extravagant importance to remote possibilities of loss or gain. Declamations for and against the doctrine are, in my view, alike unprofitable. Our precautions will diminish, and will only diminish, as we grow less afraid of one another, and cease to mistake imaginary interests for real ones¹.

¹ Those who are inclined to pursue this subject may consult Fénelon's *Examen de la Conscience sur les Devoirs de la Royauté*; Hume's *Essays* (Essay VII); the opening chapters of Gentz's *Fragmente aus der neuesten Geschichte des politischen Gleichgewichts*; Phillimore's *Commentaries on International Law*, Part IV. ch. i. (where the foregoing authorities are cited, amongst many others); Twiss, *Law of Nations*, ch. vi. There are some sensible remarks on this topic, mixed with much that is visionary, in Rousseau's *Extrait d'un Projet de Paix Perpétuelle par M. l'Abbé de S. Pierre*. That the phrase itself has had a mischievous influence is a just observation of Klüber, *Europäisches Völkerrecht*, s. 42, note.

Fox spoke with his usual warmth, in the debate on the Address (Nov. 27th, 1787), in defence of 'the sound and solid political maxim, that Great Britain ought to look to the situation of affairs upon the Continent, and to take such measures upon every change of circumstances abroad as should tend best to preserve the balance of power in Europe.' 'It was now confessed by the Government, that it was necessary to come to the lower orders of the people, those who were labouring under the heaviest burthens, those who paid for their candles, their windows, and all the various necessities of life, and say, "Severely taxed as we know you are, you must nevertheless contribute something towards the expense of keeping political power upon a balance in Europe." This was open and manly, it was dictated by sound policy.' (*Fox's Speeches*, iii. 331.)

2. Are the tendencies of modern society such as Lect. II. to diminish the necessity for these precautions? This Present tendencies of society. is the second and last point which I wish briefly to consider.

Whether men are more sensible than they were of the restraints of justice, and whether more generous conceptions of what they owe to their race, with a long customary acquiescence in rules begotten by necessity and established by opinion and usage, are not working beneficially in the same direction, I shall not now inquire. I am among those who think that the world has improved and is improving in these respects. The practice of referring to arbitration disputes of secondary importance—and a great number of wars have been wholly caused by such quarrels—has made just so much progress as to warrant the hope that it will make more. But if history has any lesson for us on this subject, it is this, that less is to be hoped from any direct endeavours to abolish wars or diminish their frequency than from the silent growth of interests, habits of life, modes of government, and a public opinion, favourable to peace. I shall only advert here to three things, which have a bearing on the question. These are the spread of commerce, the multiplication of considerable States, the advance of free institutions and popular government.

To particular classes, and even to particular nations, Effects of the spread of commerce. war has often brought large commercial profits. But

Lect. II. to every nation, without exception, war is, and always must be, *on the whole* less profitable commercially than peace. General prosperity is the life of trade. It is the interest of every trader and every trading nation that all the world should be rich, for to be rich is to have many wants as well as ample means of satisfying them ; and this interest comes closer home to us in proportion as our connections extend and our capital travels farther abroad in search of an advantageous return. English commerce especially is so busy and expansive that there is hardly a people worthy of the name whose productive power could be materially injured without loss to Great Britain. Industry all over the world toils not for itself alone ; a large portion of its earnings passes always into the common stock in which all who live and labour have a share. In the sixteenth, seventeenth, and eighteenth centuries traffic was a thing to be fought for, and to get a monopoly was the way to thrive ; and it will be long before we can quite convince foreigners (especially the Germans) either that England is sincere in asking only for open markets, or that what she gains there will not be so much lost to themselves. But if these truths are still but imperfectly understood, they are better understood than formerly ; if they penetrate slowly and meet many rebuffs, they may be trusted to make their way in the long run.

The vision which rose before the minds of Henry

the Fourth of France and Elizabeth of England, at a time when the continent of Europe contained but two great Powers, France and the House of Austria, towering above a crowd of inferiors and matched by their very pre-eminence against each other—the vision of a compact group of considerable States, not far removed from one level, has been substantially realised in later times, though in a form very unlike that old *Carte de l'Europe* which is sketched in the pages of Sully. In place of the two thousand sovereignties which writers have been able to number as existing at the close of the fifteenth century, there are now about fifty¹, and the process of absorption and consolidation is evidently destined to go further. This change has contributed to swell the number and bulk of those gigantic armies which drain the productive industry of Europe and incessantly menace her repose. Yet it has at the same time made the rivalry of the great Powers less keen, and their ambition has lost some of its old temptations. This check at least, such as it is, exists everywhere—the sense of being surrounded by a circle of neighbours having various interests and a more than nominal independence.

The influence of popular government—by which I mean not representative institutions only, but the

LECT. II.
Of the
absorption
of small
States.

Of popular
govern-
ment.

¹ The number has since been further diminished by the German War of 1866.

LECT. II. substantial power of the popular will—on the foreign policy of nations, is a subject, not for a paragraph, but for an essay. It is very mixed, and is for several reasons a difficult thing to generalise about.

On the one hand may be set the liability, under which all large bodies of people labour, to contagious heats and unreflecting impulses, and their tendency to be led away by national pride or vanity and to form opinions on imperfect information; the temptation which may beset a prince or statesman to engage in foreign wars for the sake of diverting public attention and assuaging discontent; the temptation—common however to both free and monarchical Governments, though operating in different ways—to interfere in the domestic affairs of other countries; the temptation to draw questions of foreign policy into the arena of party strife. On the other hand, we daily observe how, when for everything that is done some reason must be produced which will bear the light, and some semblance at least of public advantage shewn, personal motives are forced into the background and made to give way to public interests. We see how free discussion does its work, slowly and roughly perhaps but enough for a practical judgment, in eliciting the real merits of every disputed question. Again, how mixed and composite a thing, in a country such as ours, is this public opinion that surrounds us like the air we breathe; what various classes are really

represented in it, what diverse views, interests, LECT. II. habits of thought and feeling have helped to form it or to moderate it by impalpable restraints! Such an influence, while it keeps its mixed character, will be almost always cautious, and generally reasonable. Once, and probably twice, within a short space of time, we have ourselves been saved from embarking in a war, after the Government had advanced almost too far to recede, by public opinion, and by the sense that no satisfactory account of it could be given to the House of Commons. Less openly, and in a less degree, a like cause has produced like effects in France. Public opinion, on the other hand, under different conditions, was a chief agent in driving the German Courts into war with Denmark, and public opinion it was which forced the Danish Government to brave a war with Germany.

The question, what institutions are best suited for a steady foreign policy, has been often asked and variously answered. A French writer of the last century goes so far as to assert that the only European States capable of a systematic and extended plan were the Venetian Republic and the Swiss Confederation. Despotic Governments, he thought, were ruled by caprice; Parliamentary Governments, by faction. The truth probably is, that forms of government are not in this matter quite so material as they have been thought to be. Few traditions are more tenacious than those of a

LECT. II. Foreign Office ; public opinion on such subjects runs, during long periods, pretty constantly in the same groove ; and considerable power will always belong to any able man, be he the servant of a despot or of a democracy, who holds in his hands the strings of diplomacy and has the actual conduct of business. The minister of a free country is doubtless in great measure debarred from those subtle combinations in which politicians used to delight : an English statesman could hardly have planned and executed the transactions which gave Lombardy to **Sardinia**, and Savoy and Nice to **France**. **But** such a country is quite capable of a steady policy, and will, I believe, on the whole, more steadily than a pure monarchy, prefer a policy of peace.

Conclusion. ‘Qui êtes vous, M. l’Abbé, pour écrire sur les intérêts des nations ? Êtes vous ministre, ou ambassadeur ?’ Such was the answer received by Mably from the official to whom he had applied for leave to print the book to which some references have been made in this Lecture. There is now no incongruity or impertinence in treating subjects such as this, even within the walls of a college ; but I have expressed myself ill, if, in stating opinions, I have seemed to forget the tone proper to one who has never enjoyed the opportunities of knowledge, or felt the imperious responsibilities, which belong to action.

NOTE A.

THE following extract from Ségur's *Mémoires et Souvenirs* is tolerably well known. It is however so lively and so much to the point that it may well be quoted here. Ségur, then a young man, was on the eve of departure to represent the Government of Louis XVI at Petersburg, and he was ambitious of receiving a lesson in politics from the Count d'Aranda, a shrewd and firm but eccentric diplomatist, who had for several years been Spanish Minister at Paris:—

‘Le comte d'Aranda portait sur sa physionomie, dans son maintien, dans son langage et dans toutes ses manières, une grande empreinte d'originalité. Sa vivacité était grave, sa gravité ironique et presque satirique. Il avait une habitude ou un tic étrange et même un peu ridicule; car, presque à chaque phrase, il ajoutait ces mots: *Entendez-vous? comprenez-vous?*

‘J'allai le voir; j'invoquai les bontés qu'il m'avait toujours témoignées; je lui montrai mon inquiétude relativement à la nouvelle carrière où j'entrais, mon vif désir d'y réussir, et l'espérance que je concevrais s'il consentait à m'éclairer par ses conseils, et à me faire ainsi recueillir par d'utiles leçons une partie des fruits de sa longue expérience.

‘Ah! me dit-il en souriant, vous êtes effrayé des études qu'exige la diplomatie? *Entendez-vous? comprenez-vous?* Vous croyez devoir longtemps sécher sur des cartes, des diplômes et de vieux livres? vous voulez que je vous donne des leçons sur la politique? Eh bien, j'y consens: nous commencerons quand vous voudrez. *Entendez-vous? comprenez-vous?* Tenez, venez chez moi demain à midi, et je vous promets qu'en peu de temps vous saurez toute la politique de l'Europe. *Entendez-vous? comprenez-vous?*

‘Je le remerciai, et le lendemain je fus ponctuel au rendez-vous; je le trouvai assis dans un fauteuil, devant un grand bureau sur lequel était étendue la carte de l'Europe.

‘Asseyez-vous, me dit-il, et commençons. Le but de la

Lect. II. politique est, comme vous le savez, de connaître la force, les moyens, les intérêts, les droits, les craintes et les espérances des différentes puissances, afin de nous mettre en garde contre elles, et de pouvoir à propos les concilier, les désunir, les combattre, ou nous lier avec elles, suivant ce qu'exigent nos propres avantages et notre sûreté. *Entendez-vous ? comprenez-vous ?*

‘— A merveille ! répondis-je, mais c’est là précisément ce qui présente à mes yeux de grandes études à faire et de grandes difficultés à vaincre.

‘— Point du tout, dit-il, vous vous trompez ; et, en peu de moments, vous allez être au fait de tout : regardez cette carte ; vous y voyez tous les États européens, grands ou petits, n’importe, leur étendue, leurs limites. Examinez bien ; vous verrez qu’aucun de ces pays ne nous présente une enceinte bien régulière, un carré complet, un parallélogramme régulier, un cercle parfait. On y remarque toujours quelques saillies, quelques renforcements, quelques brèches, quelques échancrures. *Entendez-vous ? comprenez-vous ?*

‘Voyez ce colosse de Russie : au midi, la Crimée est une presqu’île qui s’avance dans la mer Noire et qui appartenait aux Turcs ; la Moldavie et la Valachie sont des saillies, et ont des côtes sur la mer Noire, qui conviendraient assez au cadre moscovite, surtout si, en tirant vers le nord, on y joignait la Pologne : regardez encore vers le nord ; là est la Finlande, hérissée de rochers ; elle appartient à la Suède, et cependant elle est bien près de Pétersbourg. *Vous entendez ?*

‘Passons à présent en Suède : voyez-vous la Norwège ? c’est une large bande tenant naturellement au territoire suédois. Eh bien, elle est dans la dépendance du Danemark. *Comprenez-vous ?*

‘Voyageons en Prusse : remarquez comme ce royaume est long, frêle, étroit ; que d’échancrures il faudrait remplir pour l’élargir du côté de la Saxe, de la Silésie, et puis sur les rives du Rhin ! *Entendez-vous ?* Et l’Autriche, qu’en dirons-nous ? Elle possède les Pays-Bas, qui sont pourtant séparés d’elle par l’Allemagne, tandis qu’elle est tout près de la Bavière,

qui ne lui appartient pas. *Entendez-vous ? comprenez-vous ?* L.ect. II.
Vous retrouvez cette Autriche au milieu de l'Italie ; mais
comme c'est loin de son cadre ? comme Venise et le Piémont
le rempliraient bien !

‘Allons, je crois pour une fois en avoir dit assez. *Entendez-vous ? comprenez-vous ?* Vous sentez bien à présent que toutes ces puissances veulent conserver leurs saillies, remplir leurs échancrures, et s'arrondir enfin suivant l'occasion. Eh bien, mon cher, une leçon suffit ; car voilà toute la politique. *Entendez-vous ? comprenez-vous ?*

‘—Ah ! répliquai-je, *j'entends et je comprends* d'autant mieux que je jette à présent mes regards sur l'Espagne, et que je vois à sa partie occidentale une longue et belle lisière ou échancrure, nommée le Portugal, et qui conviendrait, je crois, parfaitement au cadre espagnol.

‘—Je vois que *vous entendez, que vous comprenez*, me répliqua le comte d'Aranda. Vous voilà tout aussi savant que nous dans la diplomatie. Adieu ; marchez gaiement, hardiment, et vous prospérerez. *Vous entendez ? vous comprenez ?* Ainsi se termina ce bref et bizarre cours de politique.’
(Ségur, *Mémoires ou Souvenirs*, i. 97.)

LECTURE III.

DIPLOMACY, PAST AND PRESENT.

I SPOKE in my last public Lecture of the arti- LECT. III.
ficial systems of policy formerly current in
Europe, and of the changes which opinion and
practice have undergone in reference to this subject.
Between the principles on which the affairs of
nations are conducted and the agencies employed
in carrying them on there is a close connection,
and a natural transition leads from the one to the
other.

Diplomacy—a word of modern growth (its French Meanings
of 'Diplo-
macy.'
equivalent is said to be of no earlier date than the
ministry of Vergennes,)—means, in its wider sense,
X (the art or science, real or imaginary, of foreign politics;) in its narrower acceptation it stands for the art, or
imaginary art, of negotiating, or for negotiation itself
considered as a business or employment. I use the
word for the present, as in England we commonly
do, in its more restricted meaning ; and I am going
to make some remarks, such as may be fairly made

Lect. III. by one who has no practical knowledge of it and views it merely from the outside, on the character, past and present, of that business and the persons engaged in it.

Vices
ascribed to
earlier
Diplomacy,
and its
compara-
tive impor-
tance.

The diplomacy of modern Europe in the earlier stages of its history had features with which we are tolerably well acquainted. At least we know them under their worst lights and in their most unfavourable aspects. It has had the reputation of being false, crafty, meddlesome, unscrupulous in the choice of means, frivolous and punctilious to an extravagant degree. It enjoyed at the same time a larger share of consequence, and played a more showy and conspicuous part in the theatre of the world, than it does now, or is likely to do hereafter. We shall better understand the causes from which it derived its importance and to which its traditional character is due, if we observe the conditions under which it worked and the purposes for which it was employed.

A French writer on diplomacy who lived in the seventeenth century, himself a diplomatist and a worthy and estimable man, thus extols his calling. 'It causes,' says he, 'sudden revolutions in great States. It excites hatreds, jealousies, and seditions. It arms Princes and whole nations against their own interests: it forms leagues and other treaties among Sovereigns and peoples whose interests are quite opposed to one another; it destroys those

leagues, and snaps the closest ties asunder¹.' Cal- LECT. III.
lières, when he contemplated, with a certain air of complacency, the quantity of mischief which might be wrought by this powerful and insinuating agency as it had been developed in the two preceding generations by Richelieu and Mazarin, regarded it from a point of view common to the statesmen of his time, but which, to do him justice, was not his own. To induce people to serve your interests by acting against their own, was then thought a highly desirable object, which might be effected by ingenious combinations. The policy of those times was restless and speculative, not here and there and at intervals, but in general; and a restless and speculative policy begets a meddling and intriguing diplomacy. The tools we work with are produced and fashioned by the work we have to do. Again, when in the interior of Courts plotting and corruption abounded, and excessive importance was attached to ceremonial and etiquette, it was natural that the same vices and follies should reproduce themselves among those who represented their respective Courts abroad. In these respects the morals and manners of the diplomatic body would probably reflect those of its employers, and of the world in which it moved. Further, it is to be noticed that in the politics of

¹ Callières, *De la Manière de Négocier avec les Souverains*, i. 19, ed. 1750.

Lect. III. those times the personal element, the force of personal will and character, predominated more absolutely than it can in the most despotically governed countries of the present day, that the means of obtaining accurate information about foreign countries were few and scanty, and that communications were difficult and slow. On some of these points I am about to add a few observations. I do not forget that the changes I speak of were gradual, and that the policy as well as the habits and manners of the sixteenth century differed from those of the eighteenth. But for so slight a sketch as this, and for the purpose of bringing out broad general characteristics, large periods of time may be taken without risk of material inaccuracy. And this is especially true, I think, of diplomatic history. There is a sort of family likeness—a likeness with differences—in Instructions and State-papers composed in countries and at times very remote from one another, and still more in the despatches and familiar letters of shrewd men of the world, employed in similar work, though with every variety of circumstances and aim.

Personal influences in politics. Greater scope for them in former times.

The framers of political systems, as I observed in my last Lecture, had no foundation to build on beyond their conceptions of the interest of each State, and of such continuing influences as were likely to impress a permanent bias on its policy. Personal, individual,

temporary influences they were obliged to set aside. LECT. III.
 But there were always those who contended that the personal influences were really the stronger of the two. 'I have long observed,' says Sir William Temple, 'from all that I have seen, or heard, or read in story, that nothing is so fallacious as to reason upon the counsels or conduct of princes or States from what one conceives to be the true interest of their countries; for there is in all places an interest of those that govern, and another of those that are governed—nay, among these there is an interest of quiet men, that desire only to keep what they have, and another of unquiet men, who desire to acquire what they have not, and by violent, if they cannot by lawful, means. Therefore I never could find a better way of judging the resolutions of a State than by the personal temper and understanding, or passions and humours, of the princes or chief ministers that were for the time at the head of affairs. But the Spaniards reasoned only from what they thought the interests of each country¹.' And he goes on to show that the Spaniards were in fact misled. 'En politique,' says Ségur, 'il faut, pour voir juste, calculer d'après les passions des hommes peut-être plus que d'après leurs intérêts réels².' 'A great

¹ *Memoirs from 1662 to 1669*; Temple's *Works*, i. 286, ed. 1764.

² *Politique de tous les Cabinets de l'Europe*, p. 270. (Ségur's note.)

LECT. III. man,' observes Callières, 'has said that nations are ruled by princes, and princes by their interests. But it should be added that the interests of princes and their ministers are often overruled by their passions¹. Hereditary monarchy has this advantage among others, that the prosperity of the reigning family is permanently bound up with that of the nation. But even in a hereditary monarchy this coincidence of interests is far from absolute, and it affords at best an insufficient support to the judgment of a weak, short-sighted, or ambitious man. Wherever therefore a country is really swayed by a single person, or by a number of persons small enough to be manageable, the temptation to acquire influence must exist, and skill in negotiation will have a tendency to reduce itself to skill in getting and using influence.

In the despatches, published by Mr. Froude, of the Flemish and Spanish envoys at the English court during the reigns of Mary and Elizabeth—in Sully's narrative of his interviews with James the First—in Lord Malmesbury's reports of his long endeavours to fix the wavering inclinations of Catherine the Second of Russia, we have several pictures of this kind of diplomacy, painted by men as unlike one another, and representing scenes and circumstances as unlike, as can well be imagined. Lord Malmesbury had as little scruple in telling the

¹ i. 73.

Empress that her minister Panin was sold to France LECT. III. and was more the King of Prussia's servant than hers, as Sully had in urging James not to trust in Cecil, as Renard in practising on the sickly and clouded mind of Mary, or De Quadra and De Sylva in their persevering efforts to worm themselves into the confidence of Elizabeth and obtain the secret direction of her conduct. Careful observation of the changing humours of a mind which was masculine and feminine by turns, vigorous in capacity, but spoiled by flattery and unbridled sensual indulgence ; the art to please and persuade ; the qualities necessary to win over dishonest ministers and brutal favourites, or else to countermine their influence,—these were the things wanted in a British minister sent to the Court of St. Petersburg towards the close of the last century ; and in this ungrateful task a man of singular ability wasted some of the best years of his life. They were doubly wasted ; for Lord Malmesbury failed in winning Russia to the side of Great Britain, as Sully failed in imprinting his master's plans on the mind of James the First, and the agents of Charles the Fifth and Philip the Second in permanently re-conquering England for the Holy See. In fact, what is called influence commonly has failed, and does fail, to achieve what is expected from it. It awakes suspicion ; it sets counter-influences at work : strong characters resist or elude it, and dull or weak ones are often protected from it by their own

LAST. III. dulness or instability, by an instinct, natural to them, of jealousy and mistrust, or by a keener and more obstinate sense of their own interests than the world gives them credit for. What, however, we now have to observe is, that the predominance of the strictly personal element in the government of nations must have tended not only to throw, as it constantly did, the main weight and stress of negotiations on the personal qualities and knowledge of the negotiator, and thus to augment his personal importance, but to throw that stress on qualities of a lower grade, such as address, pliancy, the charm of a polished manner, and a sagacity not far removed from cunning, and on an inferior sort of knowledge—the knowledge of men¹.

Scantiness
of the
means of
informa-
tion. Effect
of this on
an ambas-
sador's
position.

The importance of diplomacy was further increased by the absence or scantiness of common means of information about foreign countries and the acts and characters of people at a distance. It was a chief part of an ambassador's business to send home detailed accounts of all he saw and heard, omitting neither persons nor things. The best specimens, probably, of this work are to be found in the reports and despatches

¹ 'Again, it is one thing to understand persons, and another thing to understand matters : for many are perfect in men's humours that are not greatly capable of the real part of business, which is the constitution of one that hath studied men more than books.' Bacon, *Essay on Cunning*.

of the Venetian envoys, written, in discharge of a duty strictly exacted from them, by observers who were among the most acute and experienced in Europe, and whose diplomatic business was seldom very onerous. It is observed by Reumont,¹ that the quantity of writing expected from an Italian diplomatic agent was what we should now consider enormous, and the same thing may be said of the French envoys of the sixteenth and seventeenth centuries. Bacon says of Henry the Seventh that 'he was careful and liberal to obtain good intelligence from foreign parts, wherein he did not only use his interest in the liegers here, and the pensioners which he had both in the Court of Rome and other the Courts of Christendom, but the industry and vigilancy of his own ambassadors in foreign parts. For which purpose his instructions were ever extreme curious and articulate; and in them more articles touching inquisition than negotiation, requiring likewise from his ambassadors an answer in particular distinct articles respectively to his questions.' 'Perpetuæ legationes,' wrote Bynkershoek early in the eighteenth century, 'fere explorandi causâ habentur.' Resident missions are kept mostly as posts of observation. When travellers were comparatively few and newspapers did not exist, and later, when a chance letter from abroad was all that the journalist

LECT. III.

¹ *Della Diplomazia Italiana dal Secolo XIII al XVI*. Florence, 1857.

Lect. III had to supply, whatever an envoy could glean was worth sending home ; and in times when the political activity of Europe was far greater than now, and projects and intrigues far more numerous, there was much more of that kind of information which can be gained only through special channels and by means of personal vigilance and ingenuity. A discreet inquisitiveness, a habit of observing closely and reporting faithfully, is still insisted on as one of the chief duties of the members of a mission ; and with a view to the practice of it they are expected to mix much in society. In critical times and places it is doubtless useful to have on the spot a man of character and position, whose duty it is to know what is passing, to sift what he learns, and transmit it punctually and clearly to his chief. It is always convenient for that chief to be well informed as to the state of parties in foreign countries, the characters of statesmen, and the true complexion of current events. A mass of such information is stored in every Foreign-Office, especially in those Continental countries where, as in Russia, the practice of accumulating and registering petty personal details has been methodised and perfected under a rigid passport system. Possibly the value of such information may not be overrated. Yet we cannot fail to see that the ambassador's function in this particular has to a great extent been superseded. There are comparatively few political secrets now to be picked up in society,

or out of it; and the collection of such intelligence LECT. III.
 as is public property has become the business of professional newsmongers, who have agents in all great capitals, whose profits depend much on their accuracy and still more on their despatch, and whose reports, being published as widely as possible, are quickly either contradicted or confirmed¹.

Communications, formerly slow and precarious, Difficulty
of com-
munication.
 have become easy and regular, and within the memory of this generation literally as quick as lightning. When despatches had to be sent by mounted couriers, travelling often in disguise and by circuitous tracks to avoid being stopped, or else to be transmitted through bankers and money-changers—when even an ambassador might have to undergo such a journey as Badoer describes in a letter published by Mr. Rawdon Browne², setting off from Venice with two shirts one over the other, riding twenty-six days to London, nearly breaking his neck on the Alps, almost drowned in the Rhine, and reaching his

¹ It appears however that the demands of the Foreign-Office for independent information are in fact rather increased than diminished by the quantity that circulates through ordinary channels. 'The papers have correspondents everywhere: our Government cannot be less well informed than the public, but must be supplied with authentic information upon everything that occurs.' *Minutes of Evidence taken before the Select Committee on the Diplomatic Service.* (Hon. H. Eliot.)

² *Four Years at the Court of Henry VIII*, i. 63.

Lect. III. destination half dead with fatigue and hardship—resident envoys must often, for long periods, have been quite cut off from home, and the safe arrival of despatches must have been very uncertain. With relays of horses, or by means of the royal posts when they were established, despatch was attainable; but it required extraordinary urgency. ‘Per postas, cito, cito, volantissime, noctu dieque sine morâ,’ represents, in the superscription of a despatch from a Milanese envoy in 1475 what we express by the word ‘immediate’¹. To come to recent times, a courier took a month, a hundred years ago, to travel from London to St. Petersburg. Now, by the multiplication and improvement of roads, by the application of steam to locomotion, and lastly by the electric telegraph, days have been gradually shortened into hours, and hours compressed into minutes. The effect is twofold. On the one hand, a minister is more of a mere subordinate agent than he was: instead of waiting several weeks for instructions, he can obtain them in a few hours, or even less; and the inevitable consequence is a large transfer of responsibility from him to his superior. Negotiations are carried on, as was the case at the London Conference of 1864,

¹ *Dépêches des Ambassadeurs Milanais*, edited by Baron F. de Gingins La Sarra (Paris and Geneva, 1858), i. 21. Commoner superscriptions are—‘Per postas, cito;’ ‘Portentur die noctuque;’ ‘Mittantur per cabalarios, cito, cito, cito, quia important pro re ducali.’ On this subject, see the Editor’s Preface, p. iv.

not so much by the persons on the spot, who are LECT. III.
ostensibly conducting the discussion, as by other persons at a distance. On the other hand, the voluminous instructions and carefully-composed despatches, of which French diplomacy, through many successive reigns, has furnished the most flowing and elaborate, and that of England perhaps the tersest, models¹, must go out of fashion; and the judgment of an envoy, his readiness, presence of mind, and quickness of apprehension, are taxed in a new way, not only by the general acceleration of movement, and the fact that every Court in Europe is within whispering distance of every other Court, but by the necessity of acting on short naked orders, not always consistent, and the ciphering of which may have been made obscurer in the transmission. Reasons,

¹ The selections from the diplomatic correspondence of Louis the Fourteenth, in Grimblot's *Letters of William III and Louis XIV, and their Ministers*; the Instructions furnished to the Marquis d'Harcourt on his mission to Spain in 1697 (De Garden, *Histoire Générale des Traités de Paix*, ii. 184); those given by Choiseul to the Baron de Breteuil in 1760 (Flassan, vi. 193; they appear also in De Garden's *Traité de Diplomatie*, iii. 253, and in Meisel's *Cours de Style Diplomatique*, ii. 5); and Talleyrand's Instructions for his mission to the Congress of Vienna, published in the Comte d'Angeberg's *Congrès de Vienne*, i. 215,—are good examples of the French style subsequent to the time of Mazarin. There are some later models, French, German, and English, in Geffcken's edition (1866) of the *Guide Diplomatique* by Ch. de Martens.

Richelieu's letters and despatches, a great number of which have been printed in the *Documents Inédits sur l'Histoire de France*, are in general short.

LECT. III. explanation, and commentary must lag behind in a despatch, which will arrive when the time for action is over.

Insincerity
attributed
to Diplo-
macy.
Causes
which tend-
ed to pro-
mote it.

The playful definition of an ambassador which Wotton wrote in the album of his friend at Augsburg has had a celebrity which he did not dream of, and which was very inconvenient to him at the time. Other callings have not escaped the imputation of mendacity. 'Mentiris ut medicus'—you lie like a physician—was a common saying three hundred years ago¹. But diplomacy has had the reputation of being false and deceitful in an eminent degree. The magnitude of the interests intrusted to an ambassador—the very fact that they were not his own, but a master's, zealous fidelity to whom was his first duty—the atmosphere of conflict and intrigue in which he moved, surrounded by those whom it was his business to outmanœuvre, and whose business it was to outwit him—might indeed easily tend to lower his sense of the obligation to be perfectly honest and true. It was base, his casuists told him, to lie for yourself, venial to lie for your friend, and a point of duty, under some circumstances, to lie for your king and country. He had to conceal his own secrets and penetrate those of others—to know 'what things should be showed at half-lights,' and what hidden altogether. 'Dissimulation,' says Bacon, 'is, as it

¹ Albericus Gentilis, *De Abusu Mendacii*, c. viii.

were, but the skirts or train of secrecy ;' and unless LECT. III. a man gives himself a little scope for dissembling, the duty of secrecy becomes impossible. 'The best composition and habit is to have openness in fame and opinion, secrecy in habit, dissimulation in seasonable use, and the power to feign if there be no remedy¹.' Such maxims were traditional especially with the old Spanish diplomatists—slow, impenetrable men, who had the merit of never being in a hurry, and the art (it was commonly thought) of seeming wiser than they were, very punctilious about personal honour, but with a certain genius for plotting. The most audacious plots which have been hatched by envoys in foreign Courts have all been Spanish. A story is told of two Spaniards, Juan de Vega and Diego de Mendoza, successively envoys at a certain great Court (the Court of France, I believe, is meant), for the authenticity of which I do not vouch. Vega, on his recall, wishing to leave a useful legacy to his successor, warned him that veracity was a thing unknown to the ministers with whom he would have to deal. The other, remembering perhaps the instructions given by Louis the Eleventh to his envoys², answered, 'They will find their match in me; for every lie they tell me, I will tell them two hundred.' 'I,' returned Vega, 'have found my account in acting quite otherwise. To all their false-

¹ *Essay VI. 'Of Simulation and Dissimulation.'*

² 'S'ils vous mentent, mentez les encore plus.'

LECT. III. hoods I have always answered by the truth ; and, if they did not believe me, I found this a happy method of arriving, without hazard to my honour, at the end which I might have proposed to myself by a lie¹. This happy method of making truth do the work of falsehood is like the half-ironical maxim attributed to Torcy, himself an upright man — ‘Que le meilleur moyen de tromper les cours c’était d’y parler toujours vrai.’ ‘Et ce fut en effet,’ adds Flassan, ‘son principal artifice².’ Others have said the same thing ; and there is an approach to it in the advice which recommends a studied openness of manner for the better concealment and protection of a close habitual reserve.

That diplomacy has been deeply tainted with the vices of dissimulation and falsehood is certain. Secret treaties, and still more secret articles annexed to published treaties, are in the nature of lies ; for a treaty is essentially a public engagement, and to publish a part as the whole, keeping the remainder undisclosed, is to palm off an imposition upon Europe. And yet the arguments for truth and openness in international affairs are plain and irresistible. Without them there can be no con-

¹ ‘Where they see clearly that a lie would stain their honour, they are wont to speak truth,’ says the Venetian Badoer, describing the Spaniards in 1557. Raumer’s *History of the Sixteenth and Seventeenth Centuries*, i. 97.

² *Histoire de la Diplomatie Française*, iv. 412.

fidence, and on the confidence which a diplomatist LECT. III.
 inspires his whole success depends. Machiavel saw this. In his letter of advice to Raffaello Girolami, Florentine envoy to the Court of Charles V, he insists strongly, from his own observation and experience, on the importance of gaining a character for sincerity¹—adding however that, where dissimulation is necessary, it should be so practised as not to be found out, or that, if it be found out, a defence should be ready. In later times the same thing has been often said, without the qualification. ‘In politics,’ said Ségur, ‘and in stormy times, the true dexterity is a courageous good faith. Character saves men from the dangers on which subtlety makes shipwreck, and firm sincerity alone can give solidity to success or dignify misfortune.’ ‘It is scarcely necessary to say,’ wrote Lord Malmesbury, among the suggestions which, late in life, he sent to a young man just entering the profession, ‘that no occasion, no provocation, no anxiety to rebut an unjust

¹ ‘E sopra tutte si debbe ingegnare un oratore di acquistarsi reputatione, la quale si acquista col dare di se esempi di uomo da bene, ed esser tenuto liberale, intero, e non avaro e doppio, e non esser tenuto uno che creda una cosa, e dicane un’ altra. Questa parte importa assai perchè io so di quelli che per essere uomini sagaci e doppi hanno in modo perduta la fede col principe, che non hanno mai potuto di poi negoziare seco; e seppure qualche volta è necessario nascondere con le parole una cosa, bisogna farlo in modo o che non appaja, o apparendo sia parata e presta la difesa.’
Istruzione fatta per Niccolò Machiavelli a Raffaello Girolami quando partì per Spagna all’ Imperatore.

LECT III. accusation, no idea, however tempting, of promoting the object you have in view, can need, much less justify, a falsehood. Success obtained by one is a precarious and baseless success. Detection would not only ruin your own reputation for ever, but deeply wound the honour of your Court. If, as frequently happens, an indiscreet question which seems to require a distinct answer is put to you by an artful minister, parry it either by treating it as an indiscreet question or get rid of it by a grave and serious look, but on no account contradict the assertion flatly if it be true, or admit it as true if false and of a dangerous tendency.' Sir Robert Adair, in his *Memoir of a Mission to the Court of Vienna in 1806*, makes some forcible remarks on the same subject. No statesman like Napoleon, he says, could be ignorant of the uses of confidence in great affairs. 'It is in fact their very life and being. It enables the actors in them to reach their point quickly, and when reached to hold it securely. It helps them to escape from the wearisome path of fencing and finessing, in which a negotiator may go on for months together, and after having, with consummate skill as he flatters himself, extorted at length a concession from his antagonist, feel himself as little sure of its definitive adoption as he was from the beginning. Confidence in such cases is amongst the most valuable of human means. Together with the ministers, it brings the two countries face to face, as it

were, and, in the interchange of proposals, adds the LECT. III. sanction of public truth to the security of private honour¹. If a living witness be wanted, we have one in Lord Clarendon. To the question whether, in his judgment, any special art is required in diplomacy, he answers, 'No: I think the special art required is this,—to be perfectly honest, truthful and straightforward².'

What conceivable circumstances may make dissimulation warrantable or justify an untruth, and what is the proper definition of a lie, are questions, we all know, which have often been considered by writers on practical ethics. A distinguished Professor of this University, three hundred years ago, discussed them in a harmless little book entitled 'On the Abuse of Lying,' which he dedicated to the then Bishop of Durham³. Such questions however

¹ *Historical Memoir*, p. 64. 'Si la bonne foi est nécessaire quelque part,' said Talleyrand in his panegyric upon Count Reinhard, 'c'est surtout dans les transactions politiques; car c'est elle qui les rend solides et durables. On a voulu confondre la réserve avec la ruse. La bonne foi n'autorise jamais la ruse, mais elle admet la réserve; et la réserve a cela de particulier qu'elle ajoute à la confiance.' 'On remarqua,' says the biographer of Reinhard in the *Biographie Universelle*, 'qu'en prononçant les mots de *bonne foi* et *vertu* le vieux diplomate s'animait, qu'il levait la tête et forçait sa voix, ayant l'air de défier l'auditoire.' Yet Talleyrand's profession, so far as it went, was probably not insincere, notwithstanding the ridicule with which it was received at the time.

² *Report from the Select Committee on the Diplomatic Service*, Minutes of Evidence, Qu. 1088.

³ *Alberici Gentilis, Juris Civilis Professoris Regii, De Abusu Mendacii Disputatio*.

Lect. III. are seldom practically encountered by a man who avoids by-paths, and whose habits of action are sound; and, if he does fall in with them, they give him little trouble. There is no reason to suppose that the business of negotiating offers any peculiar temptation in this respect. The pursuit of base or secret ends leads men into crooked ways. But the true interests of nations have nothing base in them, and are not promoted by secrecy, being indeed, for the most part, open and manifest in their nature. Bacon's admission—'Certainly the ablest men that ever were have all had an openness and frankness of dealing and a name of certainty and veracity'—applies with all its force to diplomacy. Among the most distinguished names in it are those of men notoriously not only true but frank.

Other practices. Use of cipher.

The treacherous practices of stealing letters or surreptitiously opening them, bribing servants, and hiring spies, did not expire with the age of Walsingham, nor with that of Mazarin. It is less than a century since an English minister of high character induced a King of Prussia to sign a preliminary treaty of offensive and defensive alliance in the absence of his official advisers, having excluded one who had influence with him from access to his closet by bribing the valet at the door¹. When no scruple of

¹ *Lord Malmesbury's Letters and Diaries*, ii. 425. The same experienced diplomatist however, towards the close of his life,

probity or honour forbad the corrupting of a courier LECT. III.
 or plundering him on the road, a resource was found
 in the invention of cipher. As early as 1475 there is
 a partially ciphered letter among the despatches of a
 Milanese envoy at the Court of Louis the Eleventh,
 which have lately been published in France¹, and from
 that time to the present there has been an infinite ex-
 penditure of ingenuity in devising a variety of ciphers
 simple enough to be easily and clearly decipherable
 with the key, and hard enough to be practically un-
 decipherable without it. The electric telegraph has
 given a new impulse to the art, since telegraphic
 despatches must constantly be sent in cipher.

Those who know little else about diplomacy have Diplomatic
etiquette.
 heard of its reverence for forms, and its punctilious
 etiquette. These things belonged to a state of so-
 ciety different from ours. In the love of mere
 sumptuousness and show there is a touch of bar-
 barism; the most profusely magnificent pageants
 have not been exhibited by the most polished
 nations: but where splendour has become an estab-
 lished fashion, an elaborate ceremonial seems na-
 turally to follow. When it was thought a fine

declared that he had obtained more information by inducing others
 to talk and attending to what they said, than by the use of
 money or spies.

¹ *Dépêches des Ambassadeurs Milanais*, i. 122. One line is in
 cipher.

Lect. III. thing to sit in a coach and six, and a finer still to appear in public with half a dozen of such coaches, people began to dispute, and finally to compose treatises, on the momentous question, what grade or dignity ought to entitle an envoy to this stately mode of taking the air¹. In such a world as St. Simon's an ambassador must necessarily be ceremonious, because everybody else was so. The slight which might be conveyed by accompanying an envoy half-way down stairs, instead of seeing him to his carriage-door—the offence which might be given by omitting to pay a formal visit to a prince of the blood royal not yet out of his nurse's arms²—were made slights and offences by the puerile rules of Courts, and not by those of diplomacy. There are obvious reasons however why these grave frivolities should have been carried to greater lengths among diplomatists than by any other class. An envoy

¹ See the section in Miruss, *Gesandtschaftsrecht*, 'Vom Rechte mit sechs Pferden zu fahren.' i. § 327.

² Bynkershoek mentions that, within his remembrance, an envoy from the Emperor Leopold was refused an audience by Louis XIV because he would not ask an audience of the Dauphin's children; and proceeds to divert himself with considering what would pass at such an interview. 'Sed ejus apud uxores auditorii saltem aliqua ratio constat; quod autem Legati etiam nunc accedant ad pueros Principum, bimulos forte vel trimulos, et ad ejusdem ætatis puellas, ejus ratio me plane fugit. Apud eos tamen easve orationem habent separatam, an de nucibus vel pyris vel quâ aliâ re ludicrâ agant, non satis mihi constat; hoc satis constat, Legatos sæpe incondito infantium vagitu fuisse exceptos et sic dimissos.' *Questiones Juris Publici*, II. vi.

had not merely his own self-importance to consult, Lact. III. but that of the master or nation whom he served, and by whom he knew that the most trivial and harmless concession was liable to be magnified into a breach of duty. Sir Leoline Jenkins at Nymegen, 'in perpetual agonies'¹ of perplexity and indecision about these petty matters, and at last sharply reprimanded for what at most was a venial and insignificant mistake, was not worse off than many a worthy and able man, who, with his head full of the interests of Europe, has found his hands full of petty questions of precedence. And Sir Leoline represented a Court at which, as Sir W. Godolphin testifies, there was less of ceremony than elsewhere², and a Prince who, in Temple's words, was 'without a grain of pride or vanity in his constitution,' and by nature and habit was the easiest and most careless of mankind. The French envoys themselves at the same Congress showed, Temple says, that they had less vanity than their

¹ Temple's *Memoirs*, (*Works*, i. 333.)

² 'These Exceptions may seem ridiculous in England, where Forms and Ceremonies are more easily dispensed with, and Ambassadors come to Court every night after a Domestick manner, and enter at Back-doors, have Keys to the Galleries, &c, but these Statesmen will not be guided by other Forms than their own, nor for any consideration introduce a new Practice or cheap way of coming to their Kings.' *Sir W. Godolphin to Mr. Richards*, Madrid, Dec. 7, 1672. (*Original Letters and Negotiations of Sir R. Fanshawe, the Earl of Sandwich, the Earl of Sunderland, and Sir W. Godolphin.* London, 1724.)

LECT. III. Court: they served undoubtedly a far more arrogant and exacting master than Charles the Second; but even the French have been less troublesome in this particular than the representatives of smaller sovereigns, such as the Kings of Denmark, Sweden, and Poland, whose pertinacity in wrangling for place was in proportion to the unreasonableness of their pretensions. But besides this it must be owned that the multiplication of forms, which went on most rapidly during a period when assemblages called Congresses succeeded one another, has been assisted by two other causes—by the advantage which may be taken of them for mere obstruction and delay, and by the fact that diplomatic personages representing unfriendly Powers, and therefore disposed to quarrel, were repeatedly collected together for several months with little or nothing to do¹. Of all recorded disputes about ceremonial the most ridiculous and obstinate are those which used to occur during the last century in the Imperial Diet at Ratisbon, which did nothing at all².

The ambassador's pretensions were shared, and sometimes caricatured, by his wife and servants. At

¹ 'They seem to me,' says Temple, speaking of these points of diplomatic etiquette, 'to be but so many impertinences that are grown this last age into the character of ambassadors; having been raised and cultivated by men, who, wanting other talents to value themselves upon in those employments, endeavoured to do it by exactness or niceties in the forms.' *Works*, i. 287.

² See Pütter's *Germanic Empire*, Dornford's translation, iii. 59.

more than one great Congress of the seventeenth LEOT. III. century, a dispute which raged between two ladies about an interchange of visits produced a temporary disturbance of the negotiations. In 1697 Count Straatman's coachman, driving an empty coach home from Ryswyk to the Hague, refused to give place to the deputies of the States General who were proceeding in the opposite direction, and kept them standing in the road till his master was informed of it, and sent him orders to make way¹. More than thirty pages in the *Compleat History of the Treaty of Utrecht* are filled by documents relating to that footmen's quarrel which we may remember as the subject of an amusing paper in the *Spectator*.

Forms in social intercourse serve as a protection and assistance to good manners, and prevent the jostling of mere personal pretensions. A commoner is not mortified at having to give place to a peer, though he may be wiser, richer, or more powerful than the peer is: somebody must go first, and the arrangement that peers as a class shall go before commoners as a class settles the question. When the first Napoleon, on his way to Russia, received a crowd of German potentates at Dresden, they would all have quarrelled, it was said, had not their places been determined by the strict old-fashioned etiquette of the

¹ Bynkershoek, who was an eye-witness, relates the story, and observes that precedence might as well have been claimed for a pair of the count's old shoes.

LECT. III. **Saxon Court.** It was respectful in the last century, as we learn from Lord Chesterfield, to bow to the King of England, and disrespectful to bow to the King of France : what may be the customary modes, in this country or in that, of showing respect towards the sovereign, is a matter of no importance, provided they be not troublesome or degrading ; but it is doubtless convenient, both to sovereigns and to those who have occasion to address them, that there should be some customary modes. In the transaction of business, forms are useful for economising time and labour, for regularity, deliberation, and despatch. But forms in general are mere arrangements of convenience, and undue subservience to them defeats its object, begets instead of averting disputes, embarrasses and obstructs business instead of expediting it. Then in course of time common sense rebels against the shackles imposed on it, and the forms themselves break down. We see this process going on during the successive Congresses of Nymegen, Ryswyk, and Utrecht. The Conferences of Ryswyk were held in a house, long since pulled down, which seemed to have been built for the purpose (engravings of it exist), with three separate entrances, and every convenience for preventing collisions ; but it was found impossible from first to last to sit at the single table in the rooms assigned to the mediators, because no agreement could be come to about the order of sitting : in that room they could

only stand ; they sat in a circle in another room, LECT. III. where there was no table. A Latin protocol, which had been preserved, of the proceedings at Nymegen eighteen years before, was produced as a precedent, but in vain ; it contained a plan of the room used at Nymegen, showing the arrangement of seats in it, together with the positions of the doors, windows, and fireplace,—for these things may be important in determining which is the top and which the bottom of a table¹. A round table was used at Utrecht, Cambray, Soissons, and Aix la Chapelle (1748) ; but even a round table loses its accommodating quality when it is discovered that the place of honour is that opposite the door, and that every place of honour has a right hand and a left².

When etiquette has advanced to these absurd extremes, we see plainly that it is destined to be swept away by the necessities of business ; and the expedients which have been actually adopted on different occasions are in the nature rather of total

¹ See *Actes et Mémoires des Négociations de la Paix de Ryswick*, vol. ii. *Avertissement*, and p. 19.

² At the Conferences of Paris in 1856 the plenipotentiaries sat at a large round table made expressly for the purpose, and covered with green velvet, and took their places in the same order, counting from right to left, as that in which they signed the protocol—viz. in the alphabetical order of the initial letters of the French names of the States they severally represented. Thus, when the Prussian plenipotentiaries were admitted, chairs were placed for them between those occupied by the ministers of Great Britain and those of Russia. Gourdon, *Histoire du Congrès de Paris* (1857).

Lect. III. abolition than of reform. Such are agreements that every place may be regarded as the highest ; that everybody shall sit where he chooses ; that precedence shall be given to the first who arrives, or the first who comes into the room ; or that it shall be treated as a mere accidental thing, and that ceremonial shall be dispensed with altogether. It is not to be expected or wished that nations should cease to be tenacious of their dignity, that all forms should be annihilated, and all traditional usages disappear. These matters belong to the domain of opinion : opinion makes and unmakes them, and furnishes the only standard of their importance. Thus, to an Indian native prince received at the Court of the Governor-General minute gradations of courtesy are of real consequence, because they may affect the rank he holds in the eyes of his neighbours and his subjects ; and it is therefore the duty of the Governor-General to be attentive to them. All marks of honour and respect, all observances of politeness and decorum, are nothing in themselves, but they may be much in their effects and in the estimate which men form of them ; and those who are entrusted with the credit of others are not at liberty to be careless about that estimate. As it changes—and it is always changing—manners change with it ; and the progress already made in this respect is such as to leave, I think, little to desire. Nothing can well be simpler than the accepted rules respecting the rights and duties of international agents : even

the application of them is simple, though it has produced a multitude of *causes célèbres*; their credentials and papers are simple; their modes of transacting business are generally simple; and their social intercourse with each other is that of private gentlemen. LECT. III.

In fine, the vices and the follies of diplomacy appear to have been in general, as I said at first, those of the surrounding society and of the time. The foregoing observations summarised. This profession, from the nature of its employment, and from the terms on which its members associate with one another, has less power, I think, than most others of forming and maintaining its own standard of morals or propriety. Indeed, until a recent date, it could not, except in a very qualified sense, be called a profession at all.

Envoys were formerly drawn, with little distinction, from all orders of educated men—ecclesiastics, lawyers, soldiers, persons who had filled with credit posts in the civil service of the State; the example of Rubens will hardly warrant us in adding artists. M. Le Glay¹, who has examined the annals of French diplomacy during the reigns of Henry the Second and Francis the First, observes that during that period a French mission, whether permanent or extraordinary, usually included, beside a layman of Classes from which diplomatic agents were formerly selected.

¹ *Négociations Diplomatiques entre la France et l'Autriche durant les trente premières années du XVI^e siècle* (in the *Documents Inédits sur l'Histoire de France*), *Préface*, iv.

LECT. III. high rank, a bishop and a lawyer. Churchmen were long used for this purpose by the Spanish Court. In England, before the Reformation, the number is considerable of men who, having early taken Holy Orders as a qualification for preferment, passed from the practice of the canon and civil law to the service of the State, as the readiest access to the highest ecclesiastical dignities, and were occasionally employed abroad. Our last clerical negotiator, I believe, was John Robinson, sometime a member and benefactor of Oriel College, whose name is recorded on the buildings of the inner quadrangle of that college. His career was a singular one. He went, whilst a Fellow of Oriel, to Stockholm as chaplain to the British Legation there, was subsequently himself appointed Resident, and then Envoy Extraordinary, at the Swedish Court, and retained that position for twenty-five years. Soon after his return to this country he was made Dean of Windsor and Bishop of Bristol, became Lord Privy Seal, was one of the plenipotentiaries who concluded the Treaty of Utrecht, and died, in 1723, Bishop of London¹. The ablest French negotiators have sprung from

¹ From the books of Oriel College it appears that Robinson was admitted probationer in 1675, and that in 1677 he was allowed to go abroad for a year, '£10 being granted him for commons and livery.' In 1786, being then at Stockholm, he resigned his Fellowship. Bolingbroke, in a letter to Mesnager, says of Bishop Robinson, 'He is a true Englishman, understands business, is an honest man, and has a great command of temper.'

families dedicated to the bar, the magistracy, or LEOT. III. administrative functions; a class to which France has been indebted for a multitude of excellent public servants. The most noted of ours have been gentlemen of the middle rank and moderate fortune, who had spent part of their youth abroad. Such, among others, were Unton, Williamson, Edmonds, Winwood, Carew, Wotton, Fanshawe, Temple, Methuen, Harris. Of the agents employed by, or sent to reside at, the lesser Courts, many have been what we should now call adventurers, whose adroitness and knowledge of the world gained them these petty and ill-paid appointments, whose allegiance sat loosely on them, and who often changed masters. From the stories which garnish Bynkershoek's treatise *De Foro Legatorum* we may form an idea how many persons of this sort were collected at the Hague when that city was the chief centre of the diplomatic activity of Europe, and how much trouble they gave to the authorities. Wicquefort was one of these, and wrote in prison the ponderous compilation which has made him famous. In all ranks however and in all countries men who had acquitted themselves well on one mission were chosen for another, and thus diplomatists came to form a class, though not as yet a profession. Further, it was usual for an ambassador to take among his train or 'family,' as it was called, young men whose friends wished them to see something of the world and thus fit themselves for any employment

LECT. III. which might come in their way. Bacon, when a lad of sixteen, was sent by his father to France, in the suite of Sir Amias Paulet, and remained there eighteen months. From Lady Fanshawe's *Letters* it appears that her husband took with him to Spain, as members of 'the company of his family,' six or eight young men of birth, whom she calls his 'camaradoes,' and most of whom went home at the end of a year: and Sir W. Godolphin, writing from Madrid in 1672, expresses his desire that a nephew of his, 'who is at Christ Church, should wait on my Lord Peterborough on his embassy to Vienna and Innspruck, believing that the experience of such a voyage may season his mind with more profitable observations than he can make at Oxford, though my purpose be that he return again to his studies.' Callières, writing about the same period, commends the Spaniards and Italians for a similar practice, which does not appear in his time to have obtained in France. It is mentioned as a Venetian custom by Wicquefort. The form which it subsequently assumed in the English service is thus described by Lord Cowley¹: 'I believe that, at the beginning of the present century, the only assistance afforded by the Government to the chief of an embassy or mission was that of a secretary, but the ambassador or minister was allowed to name a certain number of individuals who

Appendix to Report from the Select Committee on the Diplomatic Service, p. 359.

on his recommendation were officially recognized as Lect. III. attached to him, and whom he could employ on the public service as he might deem useful. The post of an *attaché* was constantly filled in those days by young men of family and fortune who desired to pass a few months agreeably abroad, and who could succeed in finding a friendly protector at some foreign Court. The consequence was that *attachés* were looked upon as the personal friends of the ambassador or minister. They formed part of his family and lived at his table, and sometimes altogether in his house, which in itself was equivalent to a limited salary. But on the other hand they were not considered as forming part of the permanent diplomatic staff of the country. The services they might render gave them no positive claim to promotion; and, as a natural corollary, the ambassador or minister could get rid of them, should their conduct require it, or his caprice dictate it.'

It was not however to be expected that this field of employment should remain uninvaded by the general tendency to professionalism which has taken possession of others. The train of gentlemen or *cavaliers d'ambassade* who formerly attended the person of an ambassador, serving more for show than use (Marshal Belleisle is reported to have taken forty of them to Frankfort), have disappeared; the *attaché* has become recognized as a subordinate member of a department of the civil service, standing

Growth of
the diplo-
matic pro-
fession.

Lect. III. on the lowest rung of the ladder ; and as regards access to it and promotion in it, pay and pensions, this department itself has been undergoing, here and elsewhere, a process of assimilation, gradual and still incomplete, to other branches of that service.

Objections
to permanent
missions, and
to professional
diplomacy.

The growth of professionalism in diplomacy, like the institution of resident legations, the commencement of which cannot be placed earlier than the fifteenth century, has been the gradual work of various causes. There are objections to both. It is an inevitable consequence of the organization of a 'service' to limit in some degree the liberty of selection. Every considerable Power, again, supports a good many missions which have not much to do. But an active man whose time hangs on his hands is commonly troublesome to somebody ; and the temptation to invent business, to meddle, to make unnecessary representations and unprofitable discoveries, may sometimes beset a man of this character, who finds himself in a small mission. There are temptations also, not very unlike these, which must occasionally solicit a Minister of Foreign Affairs who has such an array of instruments always under his hands. There is the risk that native habits of thought and feeling may be quite worn away in one whose whole life from youth to age is spent in foreign Courts, and further that foolish rivalries and jealousies may be kept alive (as at certain European capitals they have been) by the mere force of tradition and habit

between nations whose agents have been used to Lect. III. regard themselves as employed to watch and counteract each other.

These objections are not frivolous. Resident ^{Advantages of them.} missions and professional diplomacy have their evils, as other things have. But they have by no means a monopoly of these evils, whilst they possess great countervailing advantages. It is not commonly the professional diplomatist who is the most impatient of leisure, or the warmest partisan. If he sometimes forgets himself in this way, it is not because of his professional training, but in spite of it. He does not make violent speeches; he knows the *dicenda tacendaque*, is familiar at least with the customary restraints of his situation, and has made little use of his experience if he has not learnt discretion and self-control. If he has not the special knowledge required for special subjects of negotiation, his employment has been such as to show whether he has the qualities necessary for negotiating well on any subject. As to resident ministers, they have established themselves by a prescription of nearly four hundred years; Governments have employed them because they wanted them; even the United States, where, from the frequent changes of the whole public service, diplomacy is not yet a profession, found it necessary, very soon after they became independent, to establish representatives in every country with which they had political or

LECT. III. commercial relations, though, for the sake of simplicity and economy, they were at first desirous of giving them only the rank of *chargés d'affaires*. Of the objects which a Resident was formerly meant to serve, some, it is true, have become obsolete: *négociier sans cesse* is not among modern maxims of policy: he is not wanted to be an agitator, an intriguer, or a spy; and of the work he actually performs there is much that might be done as well by an officer clothed with no political character. To authenticate legal documents, take affidavits and declarations, and grant passports, there is no occasion for a Minister Plenipotentiary. But, cutting off all that he ought not to do, and all that could be done without him, the advantage would remain of having always on the spot an agent competent to give and obtain explanations promptly, and transact personally and at once business requiring personal and immediate attention. How many misunderstandings have been prevented, how much of cordiality and mutual esteem has been kept up, how often the sharp edges of a correspondence have been softened and disagreeable communications robbed of their sting, by the mere presence of a man of temper and judgment, who has been careful to live on a friendly footing with the ministers with whom he has to deal!—of a man, in short, not unfit for his place.

It is for such reasons, still more than for the advantages they give in the conduct of negotiation, that temper and judgment have always held the highest rank among the qualifications for diplomatic service. Who and what an envoy should be, and how he should guide himself in the performance of his duties, are themes on which much has been written, but very little that it is of use to read. In fact there is hardly any literature which is less instructive. The older writers treat them with the rhetorical minuteness which they lavished on such subjects. A perfect ambassador, like a perfect orator, should have all the virtues and all the graces. He should be neither too old nor too young, too short nor too tall—not so short as that Bolognese ambassador whom Pope Boniface VIII. desired to rise from his knees when he was standing upright, nor so tall as that English envoy who, when in walking through a town he stopped to look at something in a shop window, was supposed by the tradesman to be on horseback, and civilly asked to dismount. Count Bentenried, the tallest ambassador of his day, is noticed as having overcome this defect by his sense and breeding. He should be rich, that he may entertain splendidly, and should have Nature's own credentials, a pleasing exterior. He should be a good Christian, and what is more, he should seem such. He should be free from the pragmatism of the bar, and the disputatious humour of the schools. Let him rarely go to

Lect. III.
Qualifications
for this
service.

Lect. III. plays and shows, says an old writer¹; when there, let him sit quiet, and on no account suffer himself to betray admiration of anything that he sees. Let him be attentive to ladies, advises a Frenchman, for they have influence—‘mais qu’il n’engage pas le cœur.’ Let him accommodate himself, recommends a modern English diplomatist, to the manners of the countries whither he is sent, listen more than he talks, beware of giving his confidence too freely, and keep his papers and cipher under lock and key.

In truth, diplomatic employment does not so much require special qualifications as make special calls for common qualifications. When we are told that it demands good sense, penetration, patience, a calm judgment, an unruffled temper, application, presence of mind, firmness, a facile address, agreeable manners, we are ready to say that these are things which everybody should have who has occasion to mix with his fellow men. And so they are ; but everybody does not want them in the same degree. Disagreeable manners, for instance, are a graver defect in an ambassador than in a merchant or attorney. The faculty of listening well is useful to all men, but absolutely necessary to an ambassador. In interviews, says Callières, most men think more of what they want to say themselves than of what is being said to them. If, he adds, you see a knot of Frenchmen

¹ *Octaviani Magii de Legato Libri duo*. Maggi had himself been ambassador at Paris.

holding an ordinary conversation, you will generally LECT. III. observe that they are all talking at once, and that no one is suffered to say a dozen words without interruption. An ambassador, no doubt, has not the impatience of a Frenchman in a *cabaret*; but he is probably liable, like other men, to the temptation of letting his attention wander from what is being said to him to what he is going to say in reply. He is obliged to guard against that temptation, because it is his duty to report what is said to him with the utmost fidelity. What he says himself, as Lord Malmesbury has observed, he is in no danger of forgetting.

An experienced diplomatist, being asked to give some lessons in the art of negotiating to a young beginner, replied, 'Take snuff often and slowly, sit with your back to the light, and speak the truth; the rest you will learn by observing your older colleagues¹.' There is, in fact, no art of negotiating. An art implies the special adaptation of means to a special object: diplomacy has a special class of objects, and some special modes of proceeding, which are easily acquired by practice, but there is nothing special in the means by which success in it is attained. Cardinal Janson, who distinguished himself as *chargé d'affaires* at Rome, was asked by Louis the Fourteenth where he had learnt to negotiate so well. 'I learnt it, Sire,' answered he, 'when I was Bishop of

¹ Kollé, *Betrachtungen über Diplomatie*, p. 278.

Lect. III. Digne, and had to trot about with a lantern to canvass for the election of a *maire* of Aix.' To know exactly what you want; to see quickly and clearly what is practicable; to take everything by its right handle; never to be in a hurry; not to contradict; not to irritate; not to threaten; not to seek mere triumphs in argument, or assert principles which lead to nothing; above all, to remember that the person you are dealing with probably knows his own interest as well as you know your own, that the real end of negotiating is to find a point at which the interests of both parties can be made to coincide, and that by the dexterity which over-reaches or over-persuades nothing is gained in the long run;—all this is good advice, but it is almost as good at a parish vestry as at a conference for the pacification of Europe. The difference is rather in the weight and magnitude of the interests concerned than in their special character.

Special
knowledge.

On the special knowledge required for this career our authorities do not say much—partly, perhaps, from despair of securing much of special knowledge in a calling appropriated to men of the world, and to the greatest posts in which ignorance has often been no bar. 'Eruditio quidem,' says Bynkershoek, 'propriam virorum gloriam constituit, sed in Legatis quis hanc exigit? Ut olim legationibus functi sunt, sic et hodie funguntur, qui ne quidem linguæ Latinæ, eruditorum vernaculæ, periti sunt, qui rem populi

tractarunt nunquam, quin vel nihil quicquam nisi Lect. III.
sola forte arma, vel solas forte res ludicras¹.'

A sense, nevertheless, of the practical want of some mental training led Torcy, in 1712, to propose the formation in Paris of diplomatic classes, in which a small number of young men, not without means of their own, might receive instruction from teachers appointed and paid by the Crown. Secretaries of legation were to be taken from the pupils attending these classes. The plan was tried for a few years under the direction of M. de St. Parest, but it fell to the ground under the Regency. At Strasburg, however, during a large part of the eighteenth century, there actually existed, under Schöpflin and Koch successively, a school of diplomacy which wanted nothing but the name: the reputation of these two able men, to the second of whom we owe the one good political history of modern Europe, drew thither students not only from all parts of France but from other Continental countries, especially Russia, many of whom afterwards became famous as diplomatists or statesmen. Among them were Metternich and Ségur, Cobentzel, Razoumoffski, Stackelberg, Montgelas, Otto, Oubril.

But here again it must be admitted that the qualifications required are only to a very limited extent special. Intelligence is wanted, and minds which have lain idle are not intelligent; information

¹ *Quæstiones Juris Publici*, II. v.

Lect. III. is wanted, rising at least to the common level of cultivated society; the power of speaking and writing easily and correctly is wanted, a power which to some is natural, by others is not acquired without trouble. In a word, an ambassador should be an educated man—but this is not peculiar to ambassadors. Albericus Gentilis, writing at Oxford in Elizabeth's reign, asks only a good knowledge of history, a moderate acquaintance with moral and political philosophy and with the principles of law so far as they are applicable to public questions, and familiarity with Latin and one or two living languages. 'Legalem itaque, Ethicum, et Politicum (at e Peripato) philosophum, Legatum volo; at etiam sobriè. Volo non ex umbrâ eum scholarum deduci, sed educatum in consiliis rerum, atque in imperiorum administratione versatum.' 'Fori,' he adds, 'aliud jus est, aliud regni. Jus civile, quod vestigia etiamnum multa juris hujus publici tenet, et rationes ubique optimas ad utrumque habet jus, in his scilicet legato inserviet. Hæc novisse satis; cætera inutilia¹.'

The views of Gentilis need little substantial modification to fit them to the nineteenth century. The special acquirements now demanded by this country and by most others in their diplomatic servants are a fair general knowledge of the political history of modern Europe and America, and of the elements of international law, and a certain fami-

¹ *De Legationibus*, III. x.

liarity with languages. Some Governments also LECT. III. require a greater or less amount of private and constitutional law ; some, political economy and statistics. An ambassador is not expected to be able to deal unassisted with nice and difficult questions of law or of trade ; on such points he has to be furnished with particular instructions, or acts merely as a vehicle of communication. But he is expected (or he justly may be) to be fairly at home in such subjects, to know a difficult question from an easy one, to be able to execute the instructions which he receives, and meet other diplomatists on equal terms. A really well-read and able man, who can do more than this, will probably in the course of his career find opportunities of turning his knowledge to account.

A mastery of the common diplomatic language French as the common language of diplomacy. of Europe is to a diplomatic agent among the barest necessities of his outfit. It is a necessity which he shares with his courier, but it is even less indispensable to his courier than to him. French seems to have established itself as a common language for politics and society during the later half of the seventeenth century. At the Congress of Nymegen, says St. Didier, 'l'on s'apperceut du progrès que la Langue Françoisse avoit faite dans les pais étrangers ; car il n'y avoit point de maison d'Ambassadeurs ou elle ne fust presque aussi commune que leur langue naturelle. Bien d'avantage, elle devint si nécessaire que les Ambassadeurs, Anglois, Allemans, Danois, et

LECT. III. ceux des autres Nations, tenoient toutes leurs Conférences en François. Les deux Ambassadeurs de Dannemarck convinrent mesme de faire leur despesches communes en cette Langue, parce que le Comte Antoine d'Oldembourg parloit bon Allemand et n'entendoit point le Danois comme son Collègue. De sorte que pendant tout le cours des Négociations de la Paix il ne parut presque que des Ecritures Françoises, les Etrangers aimant mieux s'expliquer en François dans leurs Mémoires publics que d'écrire dans une langue moins usitée que la Française¹. Long

¹ *Histoire des Négociations de Nimègue*, i. 125. The Venetian envoy Giustinian, at the audience granted to him by Francis the First, addressed that monarch in Latin, and was answered in the same tongue by the Chancellor. At his first public audience of Henry the Eighth, he did the same thing: his oration lasted half an hour, and a Doctor of Laws delivered the reply. Henry himself conversed with the envoy in Latin, French, and Italian. Pasqualigo, Giustinian's colleague, spoke to Queen Catherine 'in good Spanish, which pleased her more than I can tell you.' (Rawdon Browne's *Four Years at the Court of Henry VIII.*) Guzman de Sylva, at his introduction to Queen Elizabeth, spoke Latin, and they conversed for a while in that language, but she soon fell back into Italian. (Froude's *History of England, Reign of Elizabeth*, ii. 84.) The Spanish embassy sent to conclude a Treaty of peace with James the First in 1603 used sometimes Latin, and sometimes French, as appears from the account in Ellis's *Original Letters, Second Series*, iii. 207. Sir Richard Fanshawe at his first audience at Madrid 'delivered his message in English, having first procured his Catholic Majesty to be prepared to accept it,' and then interpreted it into Spanish, and spoke Spanish only in paying his respects to the Queen. In this he would have been approved by an earlier Spanish writer of some reputation, who lays down the rule that an ambassador at his first

afterwards the Imperial Court continued to assert LECT. III.
its old pretension, due to the historical dignity of the
Holy Roman Empire, of having all negotiations with

audience should always use his native tongue, for two reasons—to maintain the dignity of his sovereign, and also because there are ambassadors who understand no language so well as their own. (Antonio de Vera, *El Embaxador*, Discurso Tercero). Fanshawe's credentials were in Latin. Those with which Sir Henry Unton had been furnished when sent by Elizabeth to the Court of France were in French. From a protocol of the first Conference at Nymegen, drawn up by the Emperor's ministers, which was cited at Ryswyk in 1697, it appears that Temple, as representing the mediating Power, opened the proceedings of that Conference in French, for which he afterwards apologised on finding himself answered in Latin by the Bishop of Gurk. The two French envoys, Estrades and Colbert, excused themselves for speaking French on the plea that they had forgotten their Latin. 'Nos obstitimus,' adds the protocollist, 'ut quilibet in hoc colloquio sensûs suos quâ vellet linguâ explicaret.' (*Actes et Mémoires des Négociations de la Paix de Ryswick*, ii. 19.) No such difficulty had arisen at Münster: Avaux, on the contrary, prided himself on his skill in writing Latin; and the pleasure he took in displaying that accomplishment was thought to have had something to do with the composition of his famous circular to the States of the Empire. Temple himself mentions a dispute that happened at Nymegen, and that illustrates the way in which the French dealt with the question. 'The Danish ambassador stood positively upon the common use of the Latin tongue between France and them in their powers, or else to give his in Danish if they gave theirs in French. These said that it was a novelty and an impertinence; and that, if in all intercourse that had ever been between those Crowns the language had not been French on their side and Latin on the Danes', even in any one instrument, they were content they should give their powers not only in Danish but in Hebrew if they pleased. . . . The Dane's pretence about the language, being neither countenanced nor approved by any of his allies, was at last yielded by him.' (*Works*, i. 310.)

Lect. III. it conducted in Latin, and other Governments delivered their written public documents either in Latin or in their own respective languages. It has become within the present century a rule of the English Foreign-Office that all written communications to foreign Courts should be made, both here and abroad, in English ; and Spain and Portugal, Austria, Prussia, and other German States, adhere to a similar practice. But the language of oral communication is French.

How far this is due to the circumstance that French ministers would speak no tongue but their own, and how far to other causes, is a question not to be pursued here. The liveliness and elegance of the language, its fine strokes and sparkling turns of expression, make it, in spite of its defects, singularly apt for conversation ; it is, as Lord Chesterfield called it, 'a language of phrases,' and has been made the polished instrument it is for conversational use by the attention bestowed in France, more than elsewhere, on the pleasant art of talking well. At the same time the facility which seems natural to a Frenchman for swift and showy generalisations, his love for 'ideas' of large application yet easy to apprehend, and a certain dexterity in using them, have helped to diffuse the literature, and with it the speech, of France, especially in countries ill provided with a literature of their own. But the fact, however produced, that it is the language most

generally understood by educated persons in different Lect. III. countries, furnishes the simple and sufficient reason why diplomacy has adopted it; and by this more or less precarious tenure its position is held. The advantage thus accidentally secured to Frenchmen, and the disadvantage to everybody else, are not inconsiderable. 'I would rather,' Sir Hamilton Seymour has well said, 'fight with my own sword, and converse in my own language.' French political phraseology at the present day is highly artificial; not unfrequently it is vague in meaning and stilted in expression; it has the impress of French ideas; and few Englishmen or Germans would willingly cast their own sentiments into such a mould. French, however, has possession; it is, as matter of fact, the common language; and a common language, though not necessary for despatches, which can be translated and read at leisure, is necessary for discussion. Yet it is hardly less true now than it was formerly that the more languages a man knows the more likely he is to make a useful diplomatic servant. I will venture to quote again the old writer to whom I lately referred. 'Nunc quidem,' says Gentilis, 'si legatus linguam Latinam teneret, bene prospectum ei opinor, quoniam longe hæc est hodie in universâ Europâ notior quam fuerit Græca. Si tamen et eas cognosceret quæ nunc vivunt ubi futurus legatus est, magis atque magis probarem¹.' French, which since the

¹ *De Legationibus*, III. viii.

LECT. III. time of Gentilis has more than taken the place of Latin, will enable a man to transact affairs with diplomatists all over the world; but, where it is a foreign tongue, the envoy who has no other must often find himself embarrassed and at a disadvantage in conversing with native ministers as well as in society, and be obliged to rely on translations, the accuracy of which he is unable to test.

Diplomacy
as a career.

‘The diplomatic life,’ said a very clever man, then a minister but now in a different career, ‘is rather enervating¹.’ It is a life without keen stimulants to exertion, with a large share of leisure (taking the whole profession together), liable to sudden inroads of heavy work and anxious responsibility, but generally free from hardships and not unsweetened by pleasures. It offers at the same time, more perhaps than any other branch of the public service, to those who pursue it, the satisfaction of consciously taking part in the transaction of great affairs—a healthy feeling, and worthy to be cherished. It has risen in importance, to some degree, since the fall of the Bourbons, but this is due to temporary causes, and it is likely, I conceive, hereafter to have still more of routine work than at present, fewer excitements, a more plodding and regular advance in the way of pro-

¹ Lord Napier, *Appendix to Report from the Select Committee on the Diplomatic Service*, p. 394.

motion. In this there is little to regret. We do Lect. III. not want a stirring or a brilliant diplomacy: better that it should err, if at all, on the side of inaction. It will adapt itself, no doubt, to its work, as it has done hitherto; and we may trust to the nature of the employment to bring into the service its fair share of ability, and prevent the principle of promotion by seniority from tyrannising over it absolutely. English envoys have generally been useful public servants rather than astute negotiators. Philippe de Commines remarked long ago that the English had less of subtlety than the French: they go to work, says he, somewhat grossly, but one must have a little patience with them¹. Lord

¹ 'Ils vont assez grosièrement en besogne, mais il faut avoir un peu de patience et ne débattre colériquement avec eux.' I am tempted to quote Lord Chesterfield, though neither as an exact representation of facts nor as an illustration of what it is desirable that an ambassador should be: 'Cæteris paribus, a French minister will get the better of an English one in any third court in Europe. The French have something more *liant*, more insinuating and engaging in their manner, than we have. An English minister shall have resided seven years at a court, without having made any one personal connection there, or without being intimate and domestic in any one house. He is always the English minister, and never naturalized. He receives his orders, demands an audience, writes an account of it to his court, and his business is done. A French minister, on the contrary, has not been six weeks at a court without having, by a thousand little attentions, insinuated himself into some degree of familiarity with the Prince, his wife, his mistress, his favourite, and his minister. He has established himself upon a familiar and domestic foot in a dozen of the best houses of the place, where he has accustomed the people

LECT. III. Malmesbury, one of the adroitest men that ever served this country, was accustomed to say that we fight better than we negotiate. Lord Stratford de Redcliffe has expressed a like opinion. Our diplomatic agents, nevertheless, stand well, I think, on the whole in the estimation of the Continent. More than others they have worked, and are likely to work, in the daylight. The publication of despatches has its inconveniences: it closes many channels of information; it may often embarrass an envoy in his dealings with foreign ministers¹; it tends to encourage the bad practice of writing despatches, not for the persons to whom they are

to be not only easy but unguarded before him: he makes himself at home there, and they think him so. By these means he knows the interior of those courts, and can almost write prophecies to his own from the knowledge he has of the characters, the humours, the abilities, or the weaknesses of the actors. The Cardinal D'Ossat was looked upon at Rome as an Italian and not as a French Cardinal: and Monsieur D'Avaux, wherever he went, was never considered as a foreign minister, but as a native and a personal friend.' (*Letters to his Son, Letter XXVIII.*)

¹ The circumstance stated by Sir Robert Adair to have caused the resignation of Sir Arthur Paget, who was minister at Vienna before him, is one which might easily recur. 'He thought himself bound to offer his resignation in consequence of the publication of one of his despatches, in which he had given an account, as it was his duty to do, of the causes which led to the capitulation of Ulm and the failure of the last campaign. In this narrative, necessarily most confidential, it was not possible to avoid mentioning names and proceedings of distinguished persons in a manner that, if divulged, must obviously lessen his efficiency with them in treating of other concerns.' (*Adair's Mission to the Court of Vienna*, p. 10.)

addressed, but for the public by which they will be read. Rigidly enforced, it would prohibit all confidential reports and close the door to all confidential intercourse. Yet, with all its inconveniences, broad daylight is, I am persuaded, the most effectual check on those faults to which in the field of foreign policy Governments and their agents have been prone. Base motives and crooked designs shrink from it; falsehood and dissimulation spin their webs in dark corners; that political wisdom which so often overshoots its mark loves to scheme and calculate in the shade. But the great interests of nations thrive best in it. It animates public spirit, and invigorates the sense of duty. LECT. III.

LECTURE IV.

THE OBLIGATION OF TREATIES.

IN some previous Lectures in this place I have LECT. IV.
spoken cursorily—an ampler treatment being
foreign to my purpose—of that famous Congress of
the seventeenth century in which modern diplomacy
has its first conspicuous landmark, of the systems of
policy which have since been current in Europe, and
of the art and business of negotiation as since prac-
tised. I wish now to make some observations on
the nature and force of the obligation of Treaties
in general. The notion which our minds attach to
this stereotyped phrase, so constantly recurring in
state-papers, and so familiar to readers of history,
is apt, I think, to be misty and obscure. To place it,
if I can, in a somewhat clearer light, is the object
of this Lecture.

It is at least a common opinion that Treaties, Current
opinion as
to regard
paid to
Treaties.
though sacred in theory, are little regarded in prac-
tice when either party has an interest in breaking
them; in short, that the obligation gives way as soon

LECT. IV. as a strain is put on it, and is thus, in effect, no obligation at all. This opinion seems to assume that the measure of truth and honesty which we expect and meet with in private affairs is not to be found in the affairs of nations. The prevalence of it is likely to be poisonous to those qualities where they actually exist; and the more indiscriminate it is, the more poisonous it is likely to be. It is further to be observed that a wide and settled divergence between a theory or rule of conduct and current practice generally casts some suspicion—though not of necessity a just suspicion—on the soundness of the theory or rule. If there be such a divergence here, it is worth while to consider what it indicates, and to what it is attributable.

Meaning
of the
words
'Treaty'
and 'Obligation.'

Let us begin at the beginning. What is a Treaty, and what is an Obligation? A Treaty is a contract between independent political societies. An Obligation is a force determining human conduct—a force, however, not of any kind indiscriminately, but assignable to one or other of certain kinds or classes to which the name has appropriated itself. The force exerted by the penalty attached to the breach of a law, and thus by the law itself, is the thing corresponding to the phrase, 'Legal Obligation.' The force exerted by the sentiment of moral disapproval, and thus by any rule of conduct to the infraction of which it is attached, is the thing answering

to the phrase, 'Moral Obligation.' But this is not LECT. IV. precisely what we mean when we use these phrases. We do not mean the force actually exerted in either case—a force which varies infinitely according to the circumstances of individuals. We should not say of one who felt himself, or really happened to be, perfectly secure from detection, that he was under no legal obligation to abstain from theft; nor should we say that a man was relieved from moral obligations by becoming a hardened sinner. And yet the operation of the restraining motive would in each case be *nil*. We mean rather the force which the law is calculated to exert, and which the rule ought to exert—without any conscious analysis of the notion expressed by 'ought,' which indeed seems to elude analysis. (The obligation of a law thus denotes to us, not the actual force of the law, but a force which our minds ascribe to it;) and the obligation of a moral rule denotes a force which our minds ascribe to the moral rule. This is a very brief, but for my purpose, I think, a sufficiently accurate, statement of a matter about which it is not easy to be at once brief and accurate.

How the sentiment of moral disapproval comes to exist in the mind—into what elements a nice scrutiny may succeed in resolving it—what logical basis, if any, can be found for it—how our principles and habits of moral judgment are formed, and by what criteria they are most properly tested, are questions

LECT. IV. of psychology and moral science. Practically, the tendency of actions to produce good or to produce evil is the only test that can be made a basis for moral reasoning, and therefore the only ground on which we can by reasoning construct general rules. In practical ethics, therefore, the question whether we are under a moral obligation to refrain from a particular act becomes, as soon as we begin to reason, the question whether the tendency of such acts as a class justifies, to our understandings, the disapproval of them, and thus supplies warrant for a general rule. Our minds are furnished with rougher and readier tests for every-day use.

Moral
Obligation
as applied
to Nations
or Govern-
ments.

Of which of these two meanings is the word Obligation susceptible when applied to nations? It may, and it commonly does, mean moral obligation. We habitually judge the acts of nations by moral standards; we approve or disapprove them, and apply to them such as we think suitable of the moral conceptions which we are in the habit of applying to the acts of individuals. And there is no reason why we should not. The acts of nations are the acts of those persons, be they few or many, who really govern the nation, done in its name and supported by its collective strength: to apportion the true responsibility for them, determine its incidence, and pronounce exactly how far it extends and where its fainter shades disappear, is a task impossible to human discernment—an impossibility which we mask

by phrases such as a 'collective personality' or a 'national conscience,' which are formulæ employed for brevity and convenience in reasoning. But this does not prevent the acts themselves from being fit objects for moral judgment. LECT. IV.

It is clear at the same time that, in the affairs of nations, the province of morality is comparatively small, and further that there are causes which tend to weaken the actual force of the sense of moral duty. Its province is small, because it takes notice of external acts only, and of these no farther than as they affect other nations, and because such acts lie within a narrow range, the relations which can exist among nations being, as compared with those which can exist among individuals, simple and few. It speaks in more hesitating accents, not only because the actual responsibility is so hard to seize and define, but for other reasons: because the acts themselves are foreign to the experience on which our ordinary moral code is framed; and because their very magnitude, the large and complex interests involved, the apparent conflicts of duty which they frequently present to the statesman himself, with the absence of those supports which private morality receives from law, habit, and settled opinion, seem to remove them into a region apart, and do in fact make it often a more difficult matter to distinguish between right and wrong. Take for example any one of the many cessions of territory which have been made

Character
and
province
of Inter-
national
Ethics.

LECT. IV. with a view to general European interests, in disregard of the wishes and the particular interests of the inhabitants. Or take such a case as the annexation of Hanover by Prussia. To pronounce a cursory opinion about it is easy, and probably we have all done so. But let any man reflect for a moment, and he will feel how much that is unknown to him he ought to know, how much that no scales of his can weigh should be taken into account, before his cursory opinion could be turned into a deliberate verdict. There are special reasons, then, why such questions should be difficult, why popular judgments on them should be unsatisfactory, and why the current morality of nations—that is, their general opinion and practice in such matters—should be comparatively lax and wavering.

Moral
Obliga-
tion of
Treaties.

A Treaty, as I have said, is an international contract. A contract is an accepted promise. The moral obligation of a contract is the duty of not disappointing the expectation which the promise is calculated to create; and the strength of the duty depends on the strength and the reasonableness of that expectation. Why it is a duty—or, in other words, why it is and ought to be a general rule that men should keep their promises—no one will need to be told who considers how great and useful a part such expectations play in human affairs. The reason of the rule, and therefore the rule itself, apply to nations as they apply to private men. It is not incorrect, then, to

say that the performance of Treaties is a matter of LECT. IV.
moral obligation.

To legal obligations, in the strict sense of the phrase, independent societies are not subject: if they were, they would not be independent. Subjection to a law implies subjection to some person or persons by whom the law is enforced. A rule of action enforced by nobody in particular may in a wider sense be called a law, but not in the sense which adheres to that word when it enters into the phrase, 'Legal Obligation.' But just because laws and legal obligations are wanting here, the rules of conduct which use and opinion are sure to beget by degrees among civilised communities in constant and various association with each other have acquired not only the name but somewhat of the strength of laws: they perform for nations, though imperfectly, the precious service which laws perform for private men—that of furnishing fixed positive standards for conduct and for the adjustment of disputes; the classes of acts which they regulate are analogous to those which, among private men, are controlled by law, and not to those which are controlled by opinion; the reasonings they proceed on are analogous, and rightly so, to legal reasonings; the force which they draw from their general acceptance, and from the grave inconvenience likely to be incurred by repudiating them, is analogous to a legal obligation. Originating as opinions, they have gained a force distinct from that which a reasonable

Nations
are not
subject to
legal ob-
ligations
strictly so
called.
Nature and
character
of Inter-
national
Law,

LECT. IV. opinion exercises merely as such ; and, as being substitutes for laws, they have been systematised as laws are systematised, and as mere opinions are not. Wanting, as they do, the imperative precision of direct enactments—wanting a recognised authority to mould or amend, to interpret or enforce them, and lagging, as they needs must, far behind the necessities from which they arise, their imperfections are perhaps more obvious than their utility. And yet it is true that, like good municipal laws, they prevent far more disputes than they compose, and compose more than they fail to settle—though of the third class of cases we hear much, of the second comparatively little, and of the first nothing at all. An imaginary line, which all nations respect, runs at a fixed distance through the waters which wash these shores ; our ambassadors are clothed with definite immunities ; our ships, when we are neutrals, carry with them definite rights, forfeitable by definite acts and subject to definite kinds of interference to which they are not subject in peace ; the effect of maritime capture in war, as transferring not only the possession, but, under certain conditions, the proprietary right, is recognised and upheld by every tribunal in Christendom. This line, these immunities and rights, were once unsettled and are now settled, and we can trace historically each step of their progress ; they are conceded to us by others because we ourselves make the same concessions ; they are submitted to by all

because all feel it to be good that as many questions LECT. IV. as possible shall be raised by common consent out of the region of opinion, where disputes are interminable, to that of positive rule and settled practice, where every dispute has its bounds. These rules are what we call International Law. Whether we call them law or morality signifies little, provided it be understood how they differ from common acceptations of the words Law and Morality. But the fallacy suggested by the phrase 'International Morality' is a more practically mischievous one than the fallacy suggested by the phrase 'International Law ;' because the temptation to overstrain legal analogies and clothe mere opinions indiscriminately in the robe of Law is less dangerous than the contrary tendency to degrade fixed rules into mere opinions.

If the observance of Treaties is among the classes of acts to which these rules relate, it is to that extent a matter of quasi-legal obligation : in other words, nations are bound to it, not only by moral considerations, but also by positive rules which operate like laws.

There are, in fact, acknowledged rules of International Law about Treaties, some logically deducible from the definition of a Treaty, some not so deducible, but founded on reasons of convenience. Thus, a transaction is no Treaty if the society which it purports to bind be not independent ; or if it be not made, directly or through an agent, by the person or persons actually sovereign in the society ; or if,

Rules of
International Law
respecting
Treaties.

Lect. IV. where an agent is employed, he be not duly authorised ; or if it be no completed agreement, but a mere negotiation or 'pollicitation ;' or if, when completed, it have not the ratification of the sovereign ; or if there be any material error or misconception on either side, such that the promise made by the one party was not in fact the promise accepted by the other. If any of the above conditions be wanting, there can be no Treaty, for there is no agreement ; there has been only a supposed, or pretended, or inchoate agreement. In applying such rules as these, few difficulties occur. It is an ascertainable question of fact whether the kingdom of Hungary or of Norway, the Canton of Lucerne, the Principality of Servia, the State of Honduras or of Paraguay, satisfies certain recognised conditions, and is thus capable, as a sovereign state, of entering into public engagements ; whether authority to conclude Treaties is vested in the President of the United States or the Governor-General of India ; whether a plenipotentiary is armed with adequate powers ; whether an instrument has received the necessary signatures ; whether ratifications have been exchanged. In such cases as that of a cession of territory by a dethroned monarch—by a merely provisional Government—by a revolted community still struggling for independence—by a conqueror whose title has not yet ripened into a firm possession, the principle is clear, and there is rarely difficulty in applying it. A latent ambiguity

such as that of the two Bolgrads, which was discovered after the conclusion of the Treaty of Paris 1856, is a mere question of evidence. If it can be proved that there are two places bearing the same name, each of which will satisfy the words of the Treaty, and if it cannot be shown that both parties meant one and the same, there has been no agreement on the point. LECT. IV.

The rule that a Treaty is vitiated by a material error is logically deducible from the notion of a contract. The rule, on the other hand, that a Treaty concluded by an authorised agent who has not exceeded his instructions, has nevertheless no force till it is ratified, cannot be so proved; it appears at first sight to be at variance with ordinary legal analogies, and with morality; and jurists, trespassing beyond their proper province, have commonly laid down that ratification under such circumstances is a moral duty. It is however a settled rule, with the advantage, which a settled rule possesses, of being a thing ascertained and indisputable. It is an extra precaution, an artificial safeguard, against improvident or ill-considered engagements, exactly analogous to those rules of private law which require for certain private contracts a specified form of words, a notarial act, a payment of earnest, or a signature. That it is salutary and convenient, is an opinion—sound, I have no doubt, but which may be disputed like any other opinion; that it is a

Lect. IV. settled rule is a fact, which may be proved by evidence like any other fact.

Their inadequacy to determine the question what Treaties are binding.

On the question then, whether an alleged contract is or is not a Treaty, International Law can and usually does speak pretty plainly, and it assumes the general rule that Treaties are binding. The practice of making Treaties is necessarily based on that assumption. But there may be exceptions to that rule, and particular difficulties in applying it; and hence arise classes of questions on which International Law does not, and cannot, speak plainly. Is the Treaty itself unjust to third parties, or to any of the contracting parties themselves? Was it extorted by unjust violence, or procured by duplicity? Has the obligation been dissolved by the act of either party, or extinguished by change of circumstances? What stipulations are to be deemed interdependent, so that a breach of one will discharge the others? In disputes about the *casus fœderis*—where, for example, your ally demands your aid, and you believe him to be in the wrong—what is to be done?

Here is a handful of questions of different sorts, which have this in common, that general rules can go but a little way in disposing of them. What they demand is an arbiter. There are under every system of private law, beside the general mass of ordinary questions of fact, questions such as these—what constitutes reasonable care, reasonable time,

a *bonâ fide* belief, ordinary prudence or firmness, LECT. IV.
 undue influence, gross hardship, and the like—which
 law is obliged to surrender practically to unassisted
 common sense. The chief service it performs in such
 cases is to provide a disinterested arbiter whose
 decision is final. Here that service is wanting.
 Whether a war was unjust, whether a change of
 circumstances is material, whether there has been
 an iniquitous sacrifice of public to private interests,
 are questions on which there are no means of
 getting an impartial decision. All such questions
 therefore—and they form a large proportion of those
 which arise about the binding force of particular
 Treaties—are banished from the empire of positive
 rules and fixed standards, to the region of floating
 opinions—of morality in the common sense—where
 they have to be settled by applying to each set of
 facts as it arises such general considerations of justice
 and expediency as can be brought to bear on it, and
 such analogies as can be borrowed from private
 ethics and private law.

The assistance then which law, or that imperfect
 substitute for law which the society of nations
 possesses, can afford to international morality in this
 matter is scanty, and it is worth while to notice how
 international morality is affected by the want of
 this assistance.

Effect of
 this on in-
 ternational
 morality.

The municipal law of every civilised country at

LACT. IV. once supports contracts and controls them. The

Assistance
which pri-
vate law
affords to
private mo-
rality.

legal obligation is purely the creature of the law—made, moulded, and circumscribed by it: within the boundaries drawn by the law the contract is enforced and an obligation exists; outside of them the contract is not enforced and the obligation does not exist. The law rejects, so far as it can consistently with the maintenance of general rules and the protection of innocent persons, contracts clearly unjust to others or to the contracting parties themselves, and such as are plainly injurious to the public or militate against settled maxims of general expediency. It imposes conditions, it exacts securities for care and deliberation, and, in certain cases, for the preservation of the means of proof. Transactions in which men do not act for themselves, or cannot be trusted to look after their own interests, or might be tempted to abuse situations of confidence or power, are fenced, as far as may be, by appropriate checks and restraints. The reasonings on which these rules have been constructed by judges and jurisconsults are for the most part pure casuistry in the true sense of the word: to direct legislation they owe little; and, in this country as in France and Germany, they form a branch of law less technical, less coloured by local circumstances, more directly (I may add) of Roman parentage, than any other¹. The questions, what

¹ The French law of contractual obligations is almost purely Roman throughout; so is the German: of ours, the basis is Roman.

a man ought to do, and what the law ought to Lect. IV.
 compel him to do, are indeed quite distinct; for
 every law is an interference with liberty, and has to
 be justified by showing, not merely that the thing
 commanded is right, but that the interference is
 necessary or useful. But it is generally true that
 the private law of modern Europe aims at enforcing
 all contracts which are morally binding and can be
 proved by proper evidence. Hence it arises that
 the received standards of morality respecting agree-
 ments have in fact been chiefly framed by courts of
 law, reasoning as moralists would reason, but forced,
 as judges constantly are, to grapple with cases which
 would never have occurred to a speculative thinker,
 and to determine, somehow, questions which he
 would probably decline to decide at all.

The support and the control which Law affords
 are both almost wholly wanting among nations. Such assist-
ance want-
ing to in-
ternational
morality.
 In consequence, the whole stress of the work, so to
 speak, is thrown upon the moral rule. Nations
 observe Treaties, apart from any special interest
 they have in doing so, because they are satisfied
 they ought to do it, rather than because it is com-
 manded by International Law. The sense of moral
 obligation however, as has been before remarked,
 operates, and always must operate, with less force
 on men acting as political societies than on men
 acting as individuals. But further, the moral rule Special
difficulties
which be-
 which commands the observance of international

LECT. IV. contracts has some difficulties of its own, which do not belong to the rule that commands the observance of private contracts. These difficulties consist in the greater breadth and rigour with which it asserts itself—the greater liability of international contracts to be unjust in their substance or origin, immoral, pernicious, or of at least doubtful utility—the want of precision in framing and of certainty in interpreting them—and the obscurity that often hangs over the obligation they purport to create.

Circumstances by which the ordinary presumption that a contract imports advantage is weakened when applied to Treaties.

The presumption that every contract is beneficial to society is a strong one, and it is on the strength of that presumption that Law enforces contracts. Why? Because it is generally to be presumed that men know their own interests, and pursue them. But when we proceed to apply it to Treaties, considerations instantly arise which seem to impair its force. The contracts of an independent political society are really made, not by the society itself, but by those persons who have sovereign power in it at the time. But they bind, or purport to bind, a multitude of other persons, who had no hand in them and were never consulted about them. In that respect, they are like the contracts of a trustee, a guardian or curator, or the manager of a joint-stock company; and the considerations which in every system of municipal law cause such contracts to be scrutinised with peculiar jealousy apply to those

made by Governments on behalf of their subjects. LECT. IV.
 They apply indeed with tenfold force. For a trustee, a guardian, a director of a trading partnership, a syndic or assignee, are persons chosen with special reference to the interests entrusted to them, either by the interested parties themselves, or by others on their account, or by the law. But sovereign power, as it actually exists, whether vested in one man, or in a few, or in many, is not the creature of law, contract, or voluntary delegation; nor, generally speaking, has any such process or principle of selection determined in what hands this tremendous deposit shall be lodged. It may have sprung from conquest; from the dictation of foreign Powers; from the struggles of turbulent factions; from old gradual encroachments on the field of liberty; from the success which centuries ago attended the efforts of crafty and strong-handed men to accumulate fiefs, crush petty jurisdictions, and root out smaller tyrants than themselves: its tenure may be due to long possession, to the support afforded by a thick growth of private and class interests, to the swords of mercenary troops, and the vast advantage which force concentrated has over force dispersed. Most Governments, in one way or another and in a greater or less degree, have been founded, and are supported, by force. But they have been and are supported also by another thing, more powerful on the whole than all the other agencies put together—the sense,

LECT. IV. obscure and unconscious but general, that any Government, even the worst, is immeasurably better than none at all, and the submission, cheerful, indifferent, or sullen as the case may be, yielded on that account to established authority. The worst Government is in its degree beneficent to the great mass of its people, by maintaining in its degree security for life and property and the reign of law, and these benefits outweigh the oppressions and exactions by which the subjects of bad Governments are galled, as well as those sins of legislation and administration of which they feel only the effects. There are, it is true, in all countries some guarantees that the ruler's policy shall not be altogether either arbitrary or selfish. Every Government has its traditions; every Government is swayed, more or less, by the feelings and opinions prevalent around it; every Government, however composed, has some interest (generally indeed, a very plain, strong, direct interest) in the prosperity of its subjects. These are guarantees, but they are very imperfect guarantees. The traditions and influences which penetrate to the sovereign may be narrow, false, selfish; the opinions to which he listens may be those of courtiers, officials, soldiers, demagogues; public and national interests may be driven to the wall by objects of personal or family ambition. The French colonists of Louisiana awoke in April 1764 to find that by a secret Treaty, two years before, they had

been handed over to Spain, as an indemnity to that LECT. IV.
 Power for the cession of Florida to Great Britain.
 Their passionate grief, their remonstrances and vain
 resistance are described in Mr. Bancroft's *History
 of the American Revolution*. Before forty years
 had passed, another secret Treaty restored them to
 France, as part of the price at which the short-lived
 dignity of King of Etruria was purchased from the
 First Consul for a Spanish Prince; and France,
 without so much as taking possession, re-sold the
 territory to the United States for a sum of money.
 France, it is true, disposed of them chiefly be-
 cause she could not keep them. But what, to the
 Courts of Paris and Madrid, were the interests or
 feelings of the people of a remote dependency,
 when brought into competition with more glittering
 objects of ambition nearer home? This is an ex-
 treme instance, but it is hardly worse than many
 others, in which it is clear, not only that the
 persons most concerned were least considered, but
 that the determining motive was in no true sense
 a public interest at all. Add that there are cases in
 which even such safeguards as I have referred to
 are altogether wanting—where for instance there is a
 mere temporary possession, such as the Great Powers
 had over the countries distributed in 1815. Add,
 further, that from the want of an international police
 the weaker Powers are liable to be forced by the
 cupidity of their neighbours into unjust bargains;

LECT. IV. and again that, while political institutions and views of public advantage are subject to change, it has been common to make Treaties for periods far exceeding the ordinary bounds of human foresight. The Methuen Treaty was by its terms to last for ever; and it did in fact, for more than a hundred years, almost exclude wholesome French wine from England, in order that the Portuguese might be bribed to buy woollen goods at no shop but ours. Mr. Methuen could as little foresee how contemptuously his great achievement, regarded in his own day as a masterpiece of sagacity and address, would be judged by later economists, as the statesmen who from 1713 to 1750 bargained and struggled to secure for England a monopoly of the Spanish slave-trade could anticipate the importunate vehemence with which England was afterwards to fling herself into the cause of Abolition. The Treaty of Alliance between England and Portugal, negotiated by the same diplomatist and signed on the same day, was likewise declared 'perpetual and eternal;' and a copy of it was laid before Parliament eight years ago as one of a series of similar engagements 'now existing and still obligatory,' the earliest of which dates from the lifetime of the Black Prince. When, in 1778, we find the British Government reminding the States General of its right to call for the succours stipulated by the Treaty of Westminster just one hundred years before, and to invoke against the resistance of

its North-American colonists a league designed to LECT. IV.
curb the ambition of Louis the Fourteenth, can we avoid being struck with the folly of such protracted engagements, and the impossibility of placing much reliance on them? This feeling it is which lames the force of Lord Liverpool's argument, in itself sound, on the same guarantee, in his *Discourse on the Conduct of the Government of Great Britain in respect of Neutral Nations*, written in 1757. But it is needless to multiply examples. To the comparative frequency of them, and to the antecedent probability of their occurring, it is due that the question, what subsequent changes of circumstances will dissolve the obligation of a contract, has a larger place and importance in books on international, than in books on private law.

Treaties, then, are engagements liable, for special reasons, to be contracted recklessly and improperly. They are engagements, therefore, which have special need of a regulating authority—an authority able to discriminate, adjudicate, ratify, control, cancel. But no such authority exists or can exist here; and in its absence the rule asserts itself, as I have said, with a breadth and rigour unknown to private law. It enjoins the performance even of contracts which are unjust in themselves or founded on injustice. It is for the general advantage that a treaty extorted at the sword's point in an aggressive war should be held binding, not because unjust aggression is other than a bad

They specially need, therefore, a controlling and discriminating authority—which is wanting.

In the absence of such authority the rule 'Pacta sunt servanda' is inevitably applied with rigour.

NOT. IV. and pernicious thing, but because, where no means of drawing a line exist, the necessity for mutual confidence and for a general reliance on solemn engagements makes it impossible to admit the plea. It is for the advantage even of the sufferer himself, and that in an eminent degree: the sacredness of a promise—all that he can offer, perhaps, when the sword is at his throat—is to him of the highest value, just as the security of credit is to no one more important than to the man who has no coin but credit to pay his debts in. And, as bad government is better than anarchy, so it is better that Treaties which ought never to have been made should be held binding, than that there should be no Treaties at all. The reason, then, which is the foundation and support of the rule bears with irresistible force against the admission of exceptions which become perfectly right and legitimate wherever there is a police to prevent injustice and a judicial authority to declare that injustice has been done, and shuts them out inexorably and altogether. Hence it is commonly laid down that neither the plea of ‘duress’ nor that of ‘*læsio enormis*’ (a degree of hardship, that is, so plain and gross that the sufferer cannot be supposed to have contemplated what he was undertaking)—pleas recognised, directly or circuitously, in one form or another, by municipal law both ancient and modern—can be allowed to justify the non-fulfilment of a Treaty. To cases of personal duress this, of course, does not apply. *Any* force or

menace applied to the *person* of a negotiator is on the face of it unlawful, because a consent wrung from the pain or terror of an individual cannot with any pretence of reason be regarded as the consent of the nation. The cession, therefore, extorted from Ferdinand the Seventh at Bayonne, the engagements obtained a few years back from Mr. Eden by the chiefs of Bhootan, were void : they were beyond the reason, and therefore beyond the scope, of the rule. But the intolerable hardships and sufferings inflicted by France on Prussia after the battle of Jena did not invalidate the Peace of Tilsit or the series of subsequent conventions which bound the conquered but unsubdued nation in fetters of steel. LECT. IV.

Yet this unqualified sternness constituted a difficulty, because the feelings of mankind revolt against it in extreme cases, whilst, from the sort of anarchy in which nations live, extreme cases are constantly liable to occur. Solid as may be the foundation of the rule, it is practically but an unsafe barrier when it opposes itself to the deep resentment and keen sense of injustice which an oppressive Treaty plants in the heart of a conquered people. A like observation applies to engagements clearly and grossly injurious to either contracting party. The nicest choice of words, the most careful search for qualifications, will not enable us to pronounce definitely that oppressive or pernicious Treaties are not binding ; and the attempts which some French and

A rigour which cannot be maintained in practice.

Lect. IV. German jurists have made to frame exceptions which should embrace extreme cases, and extreme cases only, have been as unsuccessful here as such endeavours commonly are¹. Yet little reliance can in practice be placed on oppressive or pernicious Treaties, and it is the knowledge of this which is the great check on them.

Yet laxity
of practice
has been
exaggerated.
Reasons
for this.

I have tried in the foregoing observations to answer, however imperfectly, the inquiries with which I began, and to show in what ways the laxity of practice which is supposed to exist among nations in this respect may be reasonably accounted for. I venture to say, however, that such laxity as actually exists has, in my view, been greatly exaggerated by common opinion, and from a simple cause. The very absence of an arbitral authority entitled or qualified to decide upon alleged breaches of faith has left all such questions, when they have arisen, open to endless discussion: the consequence is, that to an indiscriminating eye all engagements seem to stand on the same line; all complaints go for something, and the complaint usually makes more noise in history than the defence. But no one, I think, will deny that the reproach has truth in it; and it is a fair subject of inquiry whether this reproach can be, or is likely to be, diminished. The best hope

¹ This subject is laboriously, but unsatisfactorily, discussed by Dresch, *Ueber die Dauer der Völkerverträge*. Landshut, 1808.

of diminishing it lies in attacking such of the causes LECT. IV. which have contributed to create it as admit of being lessened or removed. These things then, at any rate, we see to be desirable—a clearer and stronger sense of the duty itself and of the interests which fortify the duty, and a stricter avoidance of engagements we or others are likely to repent of, and obligations we do not distinctly understand. And for these we must look to the progress of opinion and of political change more than to a completer code of International Law.

These are vague phrases. Let us translate them into something more definite. The practice of Governments in this matter has been gradually influenced, as it appears to me, by changes of opinion and sentiment as to the obligation of national engagements, as to the legitimate objects of them, and as to national rights and interests, and also by changes in the relation of sovereign to subject and the current views of that relation. We may expect it to be influenced hereafter by like agencies.

The notion of a contract or promise as binding in itself has been slowly developed in private law. A transaction completed at the time is understood in very early ages to require nothing but deliberation and publicity. In the hill-country of South Palestine and the days of Abraham—in a Latin village before the dawn of Roman history begins—in an English county-court under the Saxon kings, the sale of a

Objects to be desired.

Influences which may be expected to affect the conduct of Governments in this matter.

Slow development of the conception of a binding contract in private law.

Lect. IV. piece of land seems to have been effected in modes differing little from one another. Witnesses are present, as many as can be collected; the money is weighed out (if need be) and paid; there is a public declaration, the possession is handed over, and the thing is done. But an engagement to be performed at a future time is felt to require other sanctions; it is placed under the immediate protection of the Divine power. 'See,' says Laban to Jacob, 'God is witness between me and thee;' 'God judge between us.' Ζευ πάτερ, runs the Homeric adjuration—

Ζεῦ πάτερ, ἴδῃθεν μεδέων, κύδιστε, μέγιστε,
 Ἡέλιός θ', ὃς πάντ' ἐφορᾷς καὶ πάντ' ἐπακούεις,
 Καὶ ποταμοὶ καὶ γαῖα, καὶ οἱ ὑπένερθε καμόντας
 Ἀνθρώπους τίνυσσον, ὅτις κ' ἐπίορκον ὁμόσση,
 Ὑμεῖς μάρτυροι ἔσθε, φυλάσσετε δ' ὅρκια πιστά¹.

Artificial
 securities.

There are sacrifices; there is some rude visible record—a heap of stones or an upright slab; there are ceremonies and forms of words, which, as usage hardens into law, come to be regarded as essential parts of the contract, and from which, as law itself matures, the contract has to be disengaged again by degrees. The resort to extraneous aids was most natural in transactions between nations, because the sense of obligation was fainter than between man and man. A libation poured out to the powers of the unseen world, a victim struck with a flint-stone as

¹ Iliad, iii. 276-280.

a symbol of the Divine wrath against perjury—such LECT. IV.
 are the ideas represented by the words which, in Greek and Latin, stand for a solemn Treaty. In the Elean inscription, a league of unknown antiquity between two petty towns or tribes of the Peloponnese, cut on a plate of copper in the rudest Greek, the Divine sanction is secured by making a pecuniary mulct, payable to Olympian Zeus, the appointed penalty for a breach. What need of hostages, asks Livy, arguing that the *sponsio* at the Caudine Forks could not have been a Treaty—what need would there have been of hostages, ‘ubi precatone res transigitur’? The form of an oath is common, though not universal, in mediæval Treaties, with such differences as we might expect to find between a Christian’s appeal in a rude age to the judgment of God and the barbarous curse which made the substance of the Homeric *εὐχῆς*. ‘Of those who are first to break this oath,’ prayed the warriors of the Iliad, ‘may the brains be spilt on the ground like this wine, theirs and their children’s, and may other men enjoy their wives.’ ‘For the love of God and the Christian people¹, and for our common safety’—so begins the league concluded between Charles the Bald and Louis the German at Strasburg in 842, of which the Romance and Teudesque versions (for it was publicly

¹ ‘Pro deo amur et pro christian poblo’—‘In godes minna ind in thes cristiânes folches.’ The readings in Dumont are somewhat different.

Lect. IV. pronounced in both tongues) are preserved in Nithard's History, and may be read in Pertz and in Dumont. To the earliest extant Treaty of mediæval Europe, negotiated in the sixth century and recorded by Gregory of Tours, the parties swore 'by the name of God Almighty, by the Indivisible Trinity, by all Divine things, and by the dreadful day of the last judgment'. 'On the Cross, on the Four Gospels, on the Canon of the Mass, and on my honour,' is the form used in Spanish Treaties of the sixteenth and seventeenth centuries. It is in Spanish Treaties that an oath is chiefly found after the sixteenth, though the latest known instance occurs in a convention made ninety years ago between France and the Swiss Cantons in the cathedral of Soleure. But between the thirteenth and sixteenth centuries these artificial securities were prodigiously multiplied. An oath was not enough; the sovereign must swear (as the old statutes of this and other colleges required the Fellows to do) that he would neither obtain, accept, nor profit by, a Papal dispensation from his oath: he must submit himself expressly to the censures of the Church; to 'excommunication, aggravation, re-aggra-

¹ 'His itaque omnibus definitis jurant partes per Dei omnipotentis nomen et inseparabilem Trinitatem vel divina omnia ac tremendum diem judicii se omnia quæ superius scripta sunt absque ullo malo vel fraudis ingenio inviolabiliter servaturos. . . . Lectis igitur pactionibus ait rex Judicio Dei feriar si de his quicquam transcendero quæ hic continentur.' (*Hist. Rer. Gallic.* lib. ix.)

vation, interdict, anathematisation, and other heavier censures and fulminations whatsoever ;' and for this purpose must undertake to appoint within a fixed period proctors authorised to appear and record his submission before the Pope or some other ecclesiastical judge in due form of law. If, like the French kings, he had the privilege of not being excommunicated except after certain formalities, he must renounce the privilege. He must release, in case he should perjure himself, his vassals from their allegiance, must 'pledge and hypothecate' his lands and goods, and procure a crowd of sureties to do the same. In the 'Perpetual Peace' concluded between Francis the First and Henry the Eighth in 1527, two archbishops, eleven bishops, twenty-eight nobles, and thirteen borough towns, are inserted as such sureties on the English side. Lastly, he must deliver hostages, or promise to deliver them. These are the common forms employed in framing Treaties by the lawyers of the reigns of Louis the Eleventh, Louis the Twelfth, and Francis the First ; and they are repeated again and again with a patience and prolixity which are amazing when we observe how quickly and with what levity the Treaties themselves were broken.

Of all these multiplied securities none survive. Hostages have not been given in Europe since the Earls of Sussex and Cathcart were sent to Paris in 1748 as pledges for the restitution of the conquests

LECT. IV.

General
disuse of
artificial
securities.

LECT. IV. made by Great Britain during the war of the Austrian Succession. The ancient and pious formula, 'In the name of Almighty God,' which stands at the head of the Treaty of Paris 1856, remains a last relic of the natural sentiment that a great public act, such as a Treaty of Peace, is suitably clothed with the solemnities of religion.

Effects of
such se-
curities.

It is not, of course, to be assumed that, as contracts are stripped of these artificial adjuncts, there is a proportionate increase in the regard paid to the naked obligation. The adjuncts may be discarded because they have proved useless, not because they have become unnecessary. But the multiplication of them, whilst it betrays that they were useless, is a proof also that, in the opinion of that age, they were necessary. When prudent princes rode to an interview surrounded by armed men, met on a bridge, and conversed through a grating, it was no strange thing that Treaties should be broken as fast as they were made. To us, however, it may well seem strange that acute and sagacious men should not have discerned both that these varied and redoubled promises rested on nothing at all but the good faith they were meant to fortify, and that a penalty which is nugatory, or a pledge which can be circumvented, is not only ineffective but worse, because it lends a treacherous satisfaction to the conscience, suggests the very subtleties that elude it, and assists the easy work of self-deception.

The principle that a sovereign is bound to act as the representative and for the interests of his people, obvious as it seems to us, was not always obvious. It was acknowledged as an abstract truth by schoolmen and philosophical jurists; it existed also as a sentiment derived from earlier times when the prince was but chief of a clan, head of an aristocracy, or magistrate or captain of a district; it was affirmed on great occasions; but it had no steady operation. It was counteracted by many causes; at first by the position of the sovereign himself, dependent mainly on his own possessions, revenues, and family connexions, and surrounded by vassals who were nearly his equals and sometimes his superiors in substantial power—by the practice of selling, bequeathing, and partitioning sovereignties which had hardly ceased to be more than great feudal estates, a practice which the feudatories opposed when they were able and thought it hostile to their interests, otherwise conceding to their lord the liberty which they claimed for themselves—later again, by the inordinate power of the Crown, by maxims of despotism borrowed from the Roman law, and by the illusion, to which popular sentiment easily surrenders itself, that the aggrandisement of a reigning house is an advantage to the nation by adding, as the phrase is, splendour to the throne. The distinction which Grotius draws between patrimonial and non-patrimonial kingdoms is a lawyer's attempt to

Lect. IV.
Dynastic
policy;
its effect on
Treaties,
and its
decline.

Lect. IV. compromise with the principle. But during what long periods of history does it vanish altogether, lost in vulgar struggles for the advancement of mere family interests—struggles in which the resources of nations were exhausted and their prosperity sacrificed without scruple or remorse—struggles which, carried on by the great Hapsburg and Bourbon houses, made a figure in history, but which, when we descend to the level of the petty German Courts, we despise as the ignoble things they are!

I think it safe to say, taking the period covered by the experience of living men, that, in foreign as well as in domestic politics, public interests have been and are steadily gaining ground upon private interests; that sovereigns, even the most powerful, notwithstanding their vast armies and the fine organisation of all the machinery of government, are compelled to be more careful as to the Treaties they make; that difficulties unknown to the Courts of the last century now embarrass and in a great degree prohibit those classes of engagements which have been oftenest broken, and out of which complaints of national perfidy have chiefly sprung; and that this change is salutary in the highest degree.

Tendency
of inter-
national
contracts
to diminish
rather than
increase in
number
and variety.

Contracts among private men tend to increase continually, not only in variety, but in their relative importance compared with other facts which are sources of rights and obligations. The progress of liberty and of intelligence, and those causes which

make men, as civilisation advances, more and more dependent on each other, all work in this direction. Among nations the tendency is, if I mistake not, the other way. Their mutual relations depend less on particular conventions, more on general understandings and acknowledged rules of intercourse, than was formerly the case. The Treaties of the Hanseatic League, concluded in the fourteenth and fifteenth centuries, carry us back to a period when, although every merchant was a traveller, every traveller not provided with some privilege, protection, or safe-conduct, might almost be said to bear a *caput lupinum*. To protect its traders against those innumerable and intolerable exactions to which the foreigner was exposed, especially when he fell into the hands of the feudal chiefs whose castles overhung trackway and river and guarded the inhospitable shore ; to rescue its vessels from the iniquitous right of wreck, and substitute a moderate salvage ; to obtain the right of setting up, where its factories were planted, courts governed by its own *jus mercatorium*, and administering cheap impartial justice ; to secure exemptions from the rude kind of reprisals then in use—these were the objects which such a confederacy had in view in framing its commercial Treaties. The same policy had been pursued somewhat earlier, when it was even more urgently needed, by the great mercantile cities of the Mediterranean and the confederated towns on the Rhine. The commercial Treaties of the

LECT. IV.
Beneficial
effect of
this.

Lect. IV. present day, framed for the most part on traditional models, retain a great number of particular stipulations ; but our real and chief reliance is placed on the established reign of law and order, in dealing with civilised and Christian countries, where the reign of law and order prevails. Take, again, those intricate rights of succession which lately existed in various parts of Europe, especially in Germany and Italy, and which still survive here and there, and pursue them to the forgotten transactions out of which they sprang—the sales, mortgages, settlements, renunciations, reservations of eventual rights, of which medieval and modern history are full. Or recall the long train of leagues, counter-leagues, guarantees, which succeed one another in the annals of the sixteenth, seventeenth, and eighteenth centuries. These things belong to a political condition of Europe which is gone, and, so far as we can see, is not likely to return. The drama of contemporary history acted before our eyes is apt, I think, to affect us with a natural illusion. Looking back on the thirteen years which have passed since the beginning of the Russian war—years fertile in action, illustrated by grand, memorable, tragic events, exhibiting again in the field of politics men of the old scheming, resolute, unscrupulous type—we are apt to imagine that ambition was never so restless, or the state of Europe so precarious, as now. And yet any one who fairly compares the diplomatic records

of the present with those of the past may satisfy LECT. IV. himself that the tendency of our times is not towards a busy diplomacy, or towards a multiplication of political engagements, but towards caution and parsimony in that respect. I wish with all my heart to see this tendency gather force. For in this sober virtue of statesmanship, scrupulousness in contracting engagements, resides the best security for the faithful performance of them.

This leads me to another point of the greatest consequence, on which I can add but a few words. ^{Inter-national engagements should be definite and clear.} We are not cautious in contracting engagements if we do not take an accurate measure of them beforehand ; nor, if we promise we know not what, are we likely to be faithful in performing what we promise. Precision in Treaties is therefore of the highest value. I do not mean technical precision of language. Treaties, indeed, often want precision of language, for they are commonly framed by persons who have not acquired the mechanical habit of precise expression, and in phraseology which has not, by being used with precision, gained a precise meaning. No one, however, would wish to see the preparation of such instruments committed to a conveyancer, nor have their ambiguities been only or chiefly due to slips of expression. In a few instances, as in the famous clause about Alsace in the Treaty of Münster, to which I have referred in a previous Lecture, a controverted claim has been designedly left in shadow in order that advantage

LECT. IV. might afterwards be taken of that obscurity. But in many others, and especially in general arrangements concerted between several great Powers, it appears to have been thought that a distinct definition of the rights and obligations created might prove inconvenient; and vagueness has had positive recommendations where a Treaty was resorted to merely as an escape from present difficulty. These uncertainties, whether due to cunning, carelessness, or short-sighted views of expediency, have been prolific sources of mischief; they have produced unwarrantable claims, and disappointed reasonable expectations. Questions relating to the interpretation and execution of Treaties, the mutuality of promises, the extent and character of the obligation, all hinge on the inquiry, what is the substance of the contract. Whatever helps the parties to go straight to this point conduces to honesty, and, I believe, to peace.

What is
meant by
the sub-
stance of
a Treaty.

The substance of a contract is the thing which the contracting party has agreed to do, or not to do; and this is to be collected from the transaction itself. What both promiser and promisee understood at the time to be the agreement, that, and that only, is the agreement. Thus, a Treaty of alliance is in substance a contract to furnish military or naval assistance in certain contingencies, the nature of the contingencies, the kind and quantity of assistance, the amount of general co-operation which each party has a right to expect, being either specified or left uncertain.

A Treaty of cession, on the other hand, is only a formal LECT. IV. expression of consent that rights of dominion actually vested in the ceding Power shall become presently vested in the transferee. A boundary convention is but a declaration of rights, which may or may not be accompanied by a cession or by mutual cessions. In the two latter cases there is no agreement to do or refrain from anything at a future time: when possession has been delivered, no obligation rests on the ceding Power beyond that which it shares with strangers to the Treaty, the common obligation not to disturb a rightful possession; though that duty, as regards the ceding Power, is strengthened by the sense of good faith which forbids men to undo a deliberate act, or a transaction from which they have received advantage. In the language of jurists, the right conveyed by a cession is not a 'jus in personam,' but a 'jus in rem.' By subscribing or acceding to a Treaty between third parties no right is acquired, and no obligation incurred, beyond the negative obligation which attaches itself to a deliberate assent. Nor, again, by recognising a dynasty, a territorial arrangement, or a state of possession, do you oblige yourself to defend that dynasty, to uphold that arrangement or possession, nor entitle yourself in any way to insist that it shall be maintained or continued. A broad line is therefore to be drawn between such a recognition and a guarantee, which is an undertaking to defend, in case of need, a right of

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LECT. IV. some kind vested in another Power, with whom the contract is made. A guarantee of a territory is an undertaking to defend the possession of the territory; a guarantee of a dynasty is an undertaking to support the dynasty; a guarantee of a Treaty is an undertaking to prevent by force, if need be, the Treaty from being violated by any of the parties whom it binds.

Import-
ance of
attending
to it.

These are examples of what a Roman lawyer would call the 'res,' a Frenchman the 'objet,' and an Englishman the substance, of a contract between nation and nation. If it be indistinct, the obligation is doubtful; if it cannot be ascertained at all, the obligation vanishes. The apparatus of a contract is there; the motives which urge the punctual fulfilment of a promise—honour, good faith, the sense of general expediency—are ready to answer any appeal which could be made to them; but the promise itself is not there, and the expectations built on it will be frustrated when the time arrives for realising them. In plain English, a nation is bound to do that which it has agreed to do, neither less nor more; and the notion that the absence of a clear engagement can be supplied by the sentiment of honour—that is, by the strength of a motive which has nothing to operate upon—is a chimera. Honour—which in its higher sense means self-respect, in its lower sense respect for the opinion of a particular class—may and does help to supply, among nations as among individuals,

the absence of those sanctions which wait upon municipal law. But honour affords no key to the meaning of an agreement; honour will not create an agreement where there is none; and we deal unfairly with that useful monitress when we expect her to contend successfully against the difficulties inherent in an ambiguous promise, as well as against the particular interests which may dissuade from the fulfilment of it. We consult neither our character nor our advantage when we contract uncertain engagements, the true scope of which will have to be settled by such a conflict when the hour of performance comes.

LECT. IV.

Why do I dwell on considerations so plain and indisputable? I dwell on them because, though it is impossible to deny, it is easy to overlook or neglect them; and because history shows that there has been in the minds of statesmen a certain carelessness about grasping the precise import of obligations which they have undertaken or on which they have insisted; a carelessness which has contributed to make Treaties both more precarious in fact than they would otherwise have been, and frailer in the estimation of the world than they really are. If it had been clearly understood that the signatories of the Treaty of London 1856 undertook no engagement to support the claims of the present King of Denmark, and merely pledged themselves to recognise him when King, as they must have recognised

Lect. IV. any *de facto* sovereign of that country, would it have been thought worth while to conclude such a Treaty? It was not a guarantee, but it looked like one; and the consequence was that it excited false expectations in the Danish people and probably exercised an unhappy influence on their policy, whilst in the minds of the people of England it raised a conflict between their judgment of what was both right and expedient and a vague sentiment of honourable obligation, a vague apprehension of half-merited reproach. Will any one say that the heterogeneous mass of unconnected arrangements, in the nature for the most part of cessions or boundary conventions, which are packed into the Final Act of the Congress of Vienna, created any clear and intelligible set of rights and obligations among the parties to that Treaty? Or can it be affirmed that the uncertainty which hangs over them, over their relation to one another, and the interest which particular States possess in this or that stipulation, has been productive of no inconvenience? It has produced, again and again, barren disputes, and those vain remonstrances which we dignify by the name of protests. The obligations which that famous Treaty really created were far more circumscribed than they have often been supposed to be; and by the mere changes of possession which have since occurred it has been no more violated than my contract to buy land from Peter to-day will be broken

